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Presidential Documents

Title 3—

The President

Proclamation 8035 of July 12, 2006

Parents' Day, 2006

By the President of the United States of America

A Proclamation

As a child's first teachers, mentors, and role models, parents shape the character of those who will help to build the future of our Nation. On Parents' Day, we pay tribute to the hard work and sacrifice of the millions of devoted parents who provide guidance, support, and unconditional love to their children.

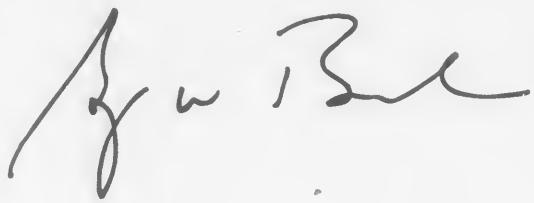
Mothers and fathers help kindle imaginations, inspire a love of learning, nurture the formation of young minds, and give children the courage and the drive to realize their dreams. By instilling in children the difference between right and wrong, parents guide their children toward developing into successful adults and responsible citizens who lead lives of purpose. In addition, the commitment of parents to the welfare of young people strengthens families and communities throughout our great country.

My Administration supports grants and programs to promote healthy marriages and responsible fatherhood. The No Child Left Behind Act is helping us ensure that every child has the opportunity to learn, and recognizes that parental involvement is a vital part of the success of schools across America. Federal, State, and local programs, and faith-based and community groups provide additional resources to help parents as they work to raise children of conviction and character.

On this special day, we express our deep gratitude to parents for their dedication to a bright and hopeful future for their children. We also pray for parents in the military who stand up for America, and we resolve that their sacrifice will always be honored by a grateful Nation.

NOW, THEREFORE, I, GEORGE W. BUSH, President of the United States of America, by virtue of the authority vested in me by the Constitution and laws of the United States and consistent with Public Law 103–362, as amended, do hereby proclaim Sunday, July 23, 2006, as Parents' Day. I call upon citizens, private organizations, and governmental bodies at all levels to engage in activities and educational efforts that recognize, support, and honor parents, and I encourage American sons and daughters to convey their love, respect, and appreciation to their parents.

IN WITNESS WHEREOF, I have hereunto set my hand this twelfth day of July, in the year of our Lord two thousand six, and of the Independence of the United States of America the two hundred and thirty-first.



[FR Doc. 06–6285
Filed 7–14–06; 8:45 am]
Billing code 3195–01–P

Rules and Regulations

Federal Register
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DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2006–23785; Directorate Identifier 2006–CE–10–AD; Amendment 39–14681; AD 2006–15–01]

RIN 2120–AA64

Airworthiness Directives; Twin Commander Aircraft Corporation Models 690, 690A, and 690B Airplanes

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

ACTION: Final rule.

SUMMARY: We are adopting a new airworthiness directive (AD) for all Twin Commander Aircraft Corporation (Twin Commander) Models 690, 690A, and 690B airplanes. This AD requires you to inspect, visually and using fluorescent dye penetrant, the support structures for the inboard and center aileron hinge fittings on both wings for cracks and replace any cracked support structure. This AD requires you to reinforce the support structures for the inboard and center aileron hinge fittings on both wings. This AD results from reports that cracks were found in the support structures for the inboard and center aileron hinge fittings on both wings. We are issuing this AD to detect and correct cracks in the support structures for the inboard and center aileron hinge fittings on both wings, which could result in aileron failure. This failure could lead to reduced controllability or loss of control of the airplane.

DATES: This AD becomes effective on August 21, 2006.

As of August 21, 2006, the Director of the Federal Register approved the incorporation by reference of certain publications listed in the regulation.

ADDRESSES: For service information identified in this AD, contact Twin Commander Aircraft LLC, 19010 59th Drive Northeast, Arlington, Washington 98223, telephone: (360) 435–9797; facsimile: (360) 435–1112.

To view the AD docket, go to the Docket Management Facility, U.S. Department of Transportation, 400 Seventh Street, SW., Nassif Building, Room PL–401, Washington, DC 20590–001 or on the Internet at *http://dms.dot.gov*. The docket number is FAA–2006–23785; Directorate Identifier 2006–CE–10–AD.

FOR FURTHER INFORMATION CONTACT: Vince Massey, Aerospace Engineer, FAA, Seattle Aircraft Certification Office, 1601 Lind Avenue, SW., Renton, WA 98057; telephone: (425) 917–6475; facsimile: (425) 917–6590.

SUPPLEMENTARY INFORMATION:

Discussion

On March 10, 2006, we issued a proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) to include an AD that would apply to all Twin Commander Models 690, 690A, and 690B, airplanes. This proposal was published in the **Federal Register** as a notice of proposed rulemaking (NPRM) on March 16, 2006 (71 FR 13558). The NPRM proposed to require you to inspect, visually and using fluorescent dye penetrant, the support structures for the inboard and center aileron hinge fittings on both wings for cracks and replace any cracked support structure. The NPRM proposed to require you to reinforce the support structures for the inboard and center aileron hinge fittings on both wings.

Comments

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

Conclusion

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

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

Costs of Compliance

We estimate that this AD affects 275 airplanes in the U.S. registry.

We estimate the following costs to do the inspection of the support structures of the inboard aileron hinge fittings on both wings:

Labor cost	Parts cost	Total cost for each airplane	Total cost on U.S. operators
10 work-hours × $80 an hour = $800	Not applicable	$800	$800 × 275 = $220,000

We estimate the following costs to do the inspection of the support structure of the center aileron hinge fittings on both wings:

Labor cost	Parts cost	Total cost for each airplane	Total cost on U.S. operators
12 work-hours × $80 an hour = $960	Not applicable	$960	$960 × 275 = $264,000

We estimate the following costs to do the reinforcement to the support structures on the inboard aileron hinge fittings on both wings:

Labor cost	Parts cost	Total cost for each airplane	Total cost on U.S. operators
25 work-hours × $80 an hour = $2,000	$1,526	$2,000 + $1,526 = $3,526	$3,526 × 275 = $969,650

We estimate the following costs to do the reinforcement of the support structure of the center aileron hinge fittings on both wings:

Labor cost	Parts cost	Total cost for each airplane	Total cost on U.S. operators
50 work-hours × $80 an hour = $4,000	$551	$4,000 + $551 = $4,551	$4,551 × 275 = $1,251,525

We estimate the following costs to do any replacements of the support structures for the inboard aileron hinge fittings on both wings that may be required based on the results of the inspection. We have no way of determining the numb er of airplanes that may need this replacement:

Labor cost	Parts cost	Total cost for each airplane
62 work-hours × $80 an hour = $4,960	$2,320	$4,960 + $2,320 = $7,280

We estimate the following costs to do any replacements of support structure for the center aileron hinge fittings on both wings that may be required based on the results of the inspection. We have no way of determining the number of airplanes that may need this replacement.

Labor cost	Parts cost	Total cost for each airplane
176 work-hours × $80 an hour = $14,080	$3,330	$14,080 + $3,330 = $17,410

Authority for This Rulemaking

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

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

Regulatory Findings

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

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

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

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

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

We prepared a summary of the costs to comply with this AD (and other information as included in the Regulatory Evaluation) and placed it in the AD Docket. You may get a copy of this summary by sending a request to us at the address listed under **ADDRESSES**. Include "Docket No. FAA–2006–23785; Directorate Identifier 2006–CE–10–AD" in your request.

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

■ 2. FAA amends § 3913 by adding the following new AD:

2006–15–01 Twin Commander Aircraft Corporation: Amendment 39–14681; Docket No. FAA–2006–23785; Directorate Identifier 2006–CE–10–AD.

Effective Date

(a) This AD becomes effective on August 21, 2006.

Affected ADs

(b) None.

Applicability

(c) This AD affects Models 690, 690A, and 690B airplanes, all serial numbers, that are certificated in any category.

Unsafe Condition

(d) This AD results from reports of cracks found in the support structures for the inboard and center aileron hinge fittings on both wings. The actions specified in this AD are intended to detect and correct cracks in the support structures for the inboard and center aileron hinge fittings on both wings, which could result in aileron failure. This failure could lead to reduced controllability or loss of control of the airplane.

Compliance

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

Actions	Compliance	Procedures
(1) Inspect, visually and using fluorescent dye penetrant, the support structures for the inboard and center aileron hinge fittings on both wings for cracks.	Within the next 150 hours time-in-service or 12 months after August 21, 2006 (the effective date of this AD), whichever occurs first.	Follow Twin Commander Aircraft LLC Alert Service Bulletin 236A and Alert Service Bulletin 238, both dated December 21, 2004, as applicable.
(2) If you do not find cracks during the inspection required in paragraph (e)(1) of this AD, reinforce the support structures for the inboard and center aileron hinge fittings on both wings that are crack free.	Before further flight after the inspection required in paragraph (e)(1) of this AD. After doing the reinforcement, no further action is required.	Follow Twin Commander Aircraft LLC Alert Service Bulletin 236A and Alert Service Bulletin 238, both dated December 21, 2004, as applicable.
(3) If you find cracks during the inspection required in paragraph (e)(1) of this AD, replace and reinforce the cracked support structure.	Before further flight after the inspection required in paragraph (e)(1) of this AD. After doing the replacement and reinforcement, no further action is required.	Follow Twin Commander Aircraft LLC Alert Service Bulletin 236A and Alert Service Bulletin 238, both dated December 21, 2004, as applicable.

Alternative Methods of Compliance (AMOCs)

(f) The Manager, Seattle Aircraft Certification Office (ACO), FAA, ATTN: Vince Massey, Aerospace Engineer, Seattle, ACO, 1601 Lind Avenue SW., Renton, WA 98057; telephone: (425) 917–6475; facsimile: (425) 917–6590, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19.

Material Incorporated by Reference

(g) You must do the actions required by this AD following Twin Commander Aircraft LLC Alert Service Bulletin 236A and Twin Commander Aircraft LLC Alert Service Bulletin 238, both dated December 21, 2004. The Director of the Federal Register approved the incorporation by reference of these service bulletins in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. To get a copy of this service information, contact Twin Commander Aircraft LLC, 19010 59th Drive NE., Arlington, WA 98223, telephone: (360) 435–9797; facsimile: (360) 435–1112. To review copies of this service information, go to the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, go to: *http://www.archives.gov/federal_register/code_of_federal_regulations/ibr_locations.html* or call (202) 741–6030. To view the AD docket, go to the Docket Management Facility; US Department of Transportation, 400 Seventh Street, SW., Nassif Building, Room PL–401, Washington, DC 20590–001 or on the Internet at *http://dms.dot.gov*. The docket number is FAA–2006–23785; Directorate Identifier 2006–CE–10–AD.

Issued in Kansas City, Missouri, on July 7, 2006.

Kim Smith,

Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. 06–6225 Filed 7–14–06; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2006–24522; Directorate Identifier 2006–NM–002–AD; Amendment 39–14680; AD 2006–14–09]

RIN 2120–AA64

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

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

ACTION: Final rule.

SUMMARY: The FAA is adopting a new airworthiness directive (AD) for certain Airbus Model A330–200 and –300, and A340–200 and –300 series airplanes. This AD requires modifying certain rotary actuator assemblies for the leading edge slat. This AD results from a leak found at the seal of the torque limiter output shaft of the Type A rotary actuator of leading edge slat No. 1. We are issuing this AD to prevent a decrease in the torque limiter function, which could result in degradation and damage to the attachment bolts of the leading edge slat, loss of the slat, and consequent reduced control of the airplane.

DATES: This AD becomes effective August 21, 2006.

The Director of the Federal Register approved the incorporation by reference of certain publications listed in the AD as of August 21, 2006.

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

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

FOR FURTHER INFORMATION CONTACT: Tim Backman, Aerospace Engineer, International Branch, ANM–116, Transport Airplane Directorate, FAA, 1601 Lind Avenue, SW., Renton, Washington 98055–4056; telephone (425) 227–2797; fax (425) 227–1149.

SUPPLEMENTARY INFORMATION:

Examining the Docket

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

Discussion

The FAA issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 to include an AD that would apply to certain Airbus Model A330–200 and –300, and A340–200 and –300 series airplanes. That NPRM was published in the **Federal Register** on April 21, 2006 (71 FR 20599). That NPRM proposed to require modifying certain rotary actuator assemblies for the leading edge slat.

Comments

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

Request To Revise the Applicability

Airbus requests that Model A330–302 and –303 airplanes be included in the applicability of paragraph (c) of the NPRM. Airbus states that those airplanes are in the process of being type certificated in the U.S.

We agree. We have determined that Model A330–302 and –303 airplanes are subject to the identified unsafe condition of this AD. Therefore, we have revised the applicability of paragraph (c) of this AD to include those airplanes to ensure that the identified unsafe condition is addressed if any of those affected airplanes are imported and placed on the U.S. Register in the future.

Conclusion

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

Costs of Compliance

This AD affects about 9 airplanes of U.S. registry. The modification (including operational test) takes about 4 work hours per airplane, at an average labor rate of $80 per work hour. Required parts are free of charge. Based on these figures, the estimated cost of the AD for U.S. operators is $2,880, or $320 per airplane.

Currently, there are no affected Model A330–302 and –303 airplanes on the U.S. Register. However, if an affected airplane is imported and placed on the U.S. Register in the future, it would be subject to the same per-airplane cost specified above.

Authority for This Rulemaking

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

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

Regulatory Findings

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

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

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

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

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

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

2006–14–09 Airbus: Amendment 39–14680. Docket No. FAA–2006–24522; Directorate Identifier 2006–NM–002–AD.

Effective Date

(a) This AD becomes effective August 21, 2006.

Affected ADs

(b) None.

Applicability

(c) This AD applies to Airbus Model A330–201, 202, –203, –223, and –243; A330–301, –302, –303, –321, –322, –323, –341, –342, and –343; A340–211, –212, and –213; and A340–311, –312, and –313 airplanes, certificated in any category; except airplanes on which Airbus Modification 50138 was done during production.

Unsafe Condition

(d) This AD results from a leak found at the seal of the torque limiter output shaft of the Type A rotary actuator of leading edge slat No. 1. We are issuing this AD to prevent a decrease in the torque limiter function, which could result in degradation and damage to the attachment bolts of the leading edge slat, loss of the slat, and consequent reduced control of the airplane.

Compliance

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

Modification

(f) Within 38 months after the effective date of this AD: Modify any Type A rotary actuator assembly for the leading edge slat having part number (P/N) 954A0000–01 or 954A0000–02, or P/N 954B0000–01, as applicable, by doing all the applicable actions in accordance with the Accomplishment Instructions of Airbus Service Bulletin A330–27–3100, Revision 01, dated May 23, 2005; or A340–27–4106, Revision 01, dated May 23, 2005; as applicable.

(g) Modification of any Type A rotary actuator assembly for the leading edge slat having P/N 954B0000–01, in accordance with Airbus Service Bulletin A330–27–3105 or A340–27–4110, both Revision 02, both dated October 10, 2005; as applicable; is acceptable for compliance with the corresponding modification specified in paragraph (f) of this AD.

Note 1: Airbus Service Bulletins A330–27–3100 and A340–27–4106 refer to Goodrich Actuation Systems Service Bulletin 954–27–M954–07, Revision 2, dated August 9, 2004; and Airbus Service Bulletins A330–27–3105 and A340–27–4110 refer to Goodrich Actuation Systems Service Bulletin 954–27–M954–06, Revision 2, dated May 20, 2004; as additional sources of service information for modifying the rotary actuator assembly for the leading edge slat.

Parts Installation

(h) As of the effective date of this AD, no Type A rotary actuator assembly for the leading edge slat having P/N 954A0000–01, –02, or 954B0000–01 may be installed unless the part has been modified in accordance with the actions required by paragraph (f) or (g) of this AD, as applicable.

Actions Accomplished Previously

(i) Modifications done before the effective date of this AD in accordance with Airbus Service Bulletins A330–27–3100, dated October 30, 2002; A330–27–3105, dated October 30, 2002, or Revision 01, dated March 27, 2003; A340–27–4106, dated October 30, 2002; or A340–27–4110, dated October 30, 2002, or Revision 01, dated March 27, 2003; as applicable; are acceptable

for compliance with the corresponding requirements of paragraphs (f) and (g) of this AD, as applicable.

Alternative Methods of Compliance (AMOCs)

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

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

Related Information

(k) French airworthiness directives F–2005–067 and F–2005–068, both dated April 27, 2005, also address the subject of this AD.

Material Incorporated by Reference

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

TABLE 1.—MATERIAL INCORPORATED BY REFERENCE

Airbus Service Bulletin	Revision level	Date
A330–27–3100 ..	01	May 23, 2005.
A330–27–3105 ..	02	Oct. 10, 2005.
A340–27–4106 ..	01	May 23, 2005.
A340–27–4110 ..	02	Oct. 10, 2005.

Issued in Renton, Washington, on July 6, 2006.

Ali Bahrami,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 06–6180 Filed 7–14–06; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2006–23644; Directorate Identifier 2006–CE–03–AD; Amendment 39–14679; AD 2006–14–08]

RIN 2120–AA64

Airworthiness Directives; Mitsubishi Heavy Industries MU–2B Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: The FAA adopts a new airworthiness directive (AD) for some Mitsubishi Heavy Industries (MHI) MU–2B series airplanes. This AD requires you to verify that the current flight idle blade angles are set at 12 degrees. If not already set at that angle, set the flight idle blade angles to 12 degrees. This AD results from a recent safety evaluation that used a data-driven approach to analyze the design, operation, and maintenance of the MU–2B series airplanes in order to determine their safety and define what steps, if any, are necessary for their safe operation. Part of that evaluation was the identification of unsafe conditions that exist or could develop on the affected type design airplanes. We are issuing this AD to prevent incorrect flight idle blade angle settings. This unsafe condition, if not corrected, could lead to an asymmetric thrust situation in certain flight conditions, which could result in airplane controllability problems.

DATES: This AD becomes effective on August 21, 2006.

As of August 21, 2006, the Director of the Federal Register approved the incorporation by reference of certain publications listed in the regulation.

ADDRESSES: To get the service information identified in this AD, contact Mitsubishi Heavy Industries America, Inc., 4951 Airport Parkway, Suite 800, Addison, Texas 75001; telephone: 972–934–5480; facsimile: 972–934–5488.

To view the AD docket, go to the Docket Management Facility; U.S. Department of Transportation, 400 Seventh Street, SW., Nassif Building, Room PL–401, Washington, DC 20590–001 or on the Internet at *http://dms.dot.gov*. The docket number is FAA–2006–23644; Directorate Identifier 2006–CE–03–AD.

FOR FURTHER INFORMATION CONTACT: Rao Edupuganti, Aerospace Engineer, Fort Worth ACO, ASW–150, Rotorcraft Directorate, FAA, 2601 Meacham Boulevard, Fort Worth, Texas 76137–4298; telephone: 817–222–5284; facsimile: 817–222–5960.

SUPPLEMENTARY INFORMATION:

Discussion

On February 3, 2006, we issued a proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) to include an AD that would apply to some MHI MU–2B series airplanes. This proposal was published in the **Federal Register** as a notice of proposed rulemaking (NPRM) on February 9, 2006 (71 FR 6685). The NPRM proposed to require you to check the flight idle blade angle setting and set to 12 degrees if not already.

Comments

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

Comment Issue: Need for Issuance of This AD After 25 Years Since the Issuance of the Service Bulletin

Mitsubishi Heavy Industries America, Inc. questions the need for an AD 25 years after the service bulletin has been issued. In 1980, MHI (Mitsubishi Aircraft International, Inc. at the time of issuance) issued Service Bulletin No. SB016/61–001, dated March 18, 1980, to change the flight blade angles from 16 degrees to 12 degrees. The type certificate data sheet for the affected airplanes was also revised to incorporate this change, which included Note 3 to indicate a small group of airplanes that may not have incorporated Service Bulletin No. SB016/61–001. No Japanese AD was issued because no airplanes on the Japanese type certificate were affected by this change. The Japanese airplanes had already incorporated the intent of the service bulletin.

At the time the service bulletin was issued, the FAA evaluated the available information and found that there were no reports of problems or incidents of flight idle blade angle settings with airplanes of U.S. registry. Therefore, we did not issue an airworthiness directive at that time.

Based on information received from the safety evaluation done in 2005 for the MU–2B series airplanes, we identified flight idle blade angles set at 16 degrees instead of 12 degrees as a potential problem.

After analyzing this issue using our risk-based methodology and the information received from the safety evaluation, we identified that an unsafe

condition is likely to exist or develop on certain type design MU–2B series airplanes. Therefore, we determined that AD action was necessary to ensure that all affected airplanes had flight idle blade angles set to 12 degrees.

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

Conclusion

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

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

The Administration is committed to updating the aviation community of expected costs associated with the MU–2B series airplane safety evaluation conducted in 2005. As a result of that commitment, the accumulating expected costs of all ADs related to the MU–2B series airplane safety evaluation may be found in the Final Report section at the following Web site: *http://www.faa.gov/aircraft/air_cert/design_approvals/small_airplanes/cos/mu2_foia_reading_library/.*

Costs of Compliance

We estimate that this AD affects 148 airplanes in the U.S. registry.

We estimate the following costs to do the modification to change the flight idle blade angle:

Labor cost	Parts cost	Total cost per airplane	Total cost on U.S. operators
6 work-hours × $80 = $480	Not applicable	$480	$71,040

Authority for This Rulemaking

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

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

Regulatory Findings

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

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

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

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

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

We prepared a summary of the costs to comply with this AD (and other information as included in the Regulatory Evaluation) and placed it in the AD Docket. You may get a copy of this summary by sending a request to us at the address listed under **ADDRESSES**. Include "Docket No. FAA–2006–23644; Directorate Identifier 2006–CE–03–AD" in your request.

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

■ 2. FAA amends § 39.13 by adding a new AD to read as follows:

2006–14–08 Mitsubishi Heavy Industries: Amendment 39–14679; Docket No. FAA–2006–23644; Directorate Identifier 2006–CE–03–AD.

Effective Date

(a) This AD becomes effective on August 21, 2006.

Affected ADs

(b) None.

Applicability

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

Model	Serial No.
(1) MU–2B–26A and MU–2B–40	321SA, 348SA, 350SA through 419SA, 421SA, 422SA, and 423SA.
(2) MU–2B–36A and MU–2B–60	661SA, 697SA through 747SA, 749SA through 757SA, and 759SA through 773SA.

Unsafe Condition

(d) This AD results from a recent safety evaluation that used a data-driven approach to analyze the design, operation, and maintenance of the MU–2B series airplanes in order to determine their safety and define what steps, if any, are necessary for their safe operation. Part of that evaluation was the identification of unsafe conditions that exist or could develop on the affected type design airplanes. The actions specified in this AD are intended to prevent incorrect flight idle blade angle settings. This unsafe condition, if not corrected, could lead to an asymmetric thrust situation in certain flight conditions, which could result in airplane controllability problems.

Compliance

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

Actions	Compliance	Procedures
Verify that the current flight idle blade angles are set at 12 degrees. If not already set to 12 degrees, set the flight idle blade angles to 12 degrees.	Within the next 100 hours time-in-service after August 21, 2006 (the effective date of this AD).	Follow Mitsubishi Aircraft International, Inc. Service Bulletin No. SB016/61–001, dated March 18, 1980.

Alternative Methods of Compliance (AMOCs)

(f) The Manager, Forth Worth Aircraft Certification Office (ACO), FAA, ATTN: Rao Edupuganti, Aerospace Engineer, Fort Worth ACO, ASW–150, Rotorcraft Directorate, FAA, 2601 Meacham Boulevard, Fort Worth, Texas 76137–4298; telephone: 817–222–5284; facsimile: 817–222–5960, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19.

Material Incorporated by Reference

(g) You must do the actions required by this AD following the instructions in Mitsubishi Aircraft International, Inc. Service Bulletin No. SB016/61–001, dated March 18, 1980. The Director of the Federal Register approved the incorporation by reference of this service bulletin in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. To get a copy of this service information, contact Mitsubishi Heavy Industries, Ltd., 4951 Airport Parkway, Suite 800, Addison, Texas 75001 telephone: 972–934–5480; facsimile: 972–934–5488. To review copies of this service information, go to the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, go to: *http://www.archives.gov/federal_register/code_of_federal_regulations/ibr_locations.html* or call (202) 741–6030. To view the AD docket, go to the Docket Management Facility; U.S. Department of Transportation, 400 Seventh Street, SW., Nassif Building, Room PL–401, Washington, DC 20590–001 or on the Internet at *http://dms.dot.gov*. The docket number is FAA–2006–23644; Directorate Identifier 2006–CE–03–AD.

Issued in Kansas City, Missouri, on July 5, 2006.

Kim Smith,

Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. 06–6179 Filed 7–14–06; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2006–24432; Directorate Identifier 2005–NM–227–AD; Amendment 39–14678; AD 2006–14–07]

RIN 2120–AA64

Airworthiness Directives; Boeing Model 737–100, –200, and –200C Series Airplanes

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

ACTION: Final rule.

SUMMARY: The FAA is superseding an existing airworthiness directive (AD), which applies to certain Boeing Model 737 series airplanes. That AD currently requires inspection of the elevator tab inboard hinge support structure to detect fatigue cracking and corrective action if necessary. That AD also provides an optional terminating action. This new AD adds airplanes to the applicability and requires new repetitive inspections. For airplanes having elevators with laminated rear spars, this new AD requires repetitive inspections for interlaminar corrosion, delamination, or disbonding in the rear spar, repetitive inspections for cracking in the spar web, and repair including related investigative/corrective actions if necessary. For airplanes having elevators with solid rear spars, this new AD requires repetitive inspections for cracking in the spar web and repair including related investigative/corrective actions if necessary. This AD results from reports of cracks in the elevator rear spar web at the tab hinge bracket locations. We are issuing this AD to detect and correct cracking, corrosion, interlaminar corrosion, delamination, and disbonding in the elevator rear spar, which may reduce elevator stiffness and lead to in-flight vibration. In-flight vibration may lead to elevator and horizontal stabilizer damage and reduced controllability of the airplane.

DATES: This AD becomes effective August 21, 2006.

The Director of the Federal Register approved the incorporation by reference of certain publications listed in the AD as of August 21, 2006.

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

Contact Boeing Commercial Airplanes, P.O. Box 3707, Seattle, Washington 98124–2207, for service information identified in this AD.

FOR FURTHER INFORMATION CONTACT: Nancy Marsh, Aerospace Engineer, Airframe Branch, ANM–120S, FAA, Seattle Aircraft Certification Office, 1601 Lind Avenue, SW., Renton, Washington 98057–3356; telephone (425) 917–6440; fax (425) 917–6590.

SUPPLEMENTARY INFORMATION:

Examining the Docket

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

Discussion

The FAA issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 to include an AD that supersedes AD 76–11–05 R1, amendment 39–6234 (54 FR 25709, June 19, 1989). The existing AD applies to certain Boeing Model 737 series airplanes. That NPRM was published in the **Federal Register** on April 13, 2006 (71 FR 19144). That NPRM proposed to continue to require inspection of the elevator tab inboard hinge support structure to detect fatigue cracking and corrective action if necessary. That NPRM also proposed to continue to provide an optional terminating action for the existing inspections. That NPRM proposed to add airplanes to the applicability and to require new repetitive inspections. For airplanes having elevators with laminated rear spars, that NPRM proposed to require repetitive inspections for interlaminar corrosion, delamination, or disbonding

in the rear spar, repetitive inspections for cracking in the spar web, and repair including related investigative/corrective actions if necessary. For airplanes having elevators with solid rear spars, that NPRM proposed to require repetitive inspections for cracking in the spar web and repair including related investigative/corrective actions if necessary.

Comments

We provided the public the opportunity to participate in the development of this AD. No comments have been received on the NPRM or on the determination of the cost to the public.

Conclusion

We have carefully reviewed the available data and determined that air safety and the public interest require adopting the AD as proposed.

Costs of Compliance

There are about 1,355 airplanes of the affected design in the worldwide fleet. The following table provides the estimated costs for U.S. operators to comply with this AD.

ESTIMATED COSTS

Action	Work hours	Average labor rate per hour	Cost per airplane	Number of U.S.-registered airplanes	Fleet cost
Inspection, per inspection cycle	10–100	$80	$800–$8,000, per inspection cycle.	230	$184,000–$1,840,000, per inspection cycle.

Authority for This Rulemaking

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

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

Regulatory Findings

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

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

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

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

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

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

■ 2. The Federal Aviation Administration (FAA) amends § 39.13 by removing amendment 39–6234 (54 FR 25709, June 19, 1989) and by adding the following new airworthiness directive (AD):

2006–14–07 Boeing: Amendment 39–14678. Docket No. FAA–2006–24432; Directorate Identifier 2005–NM–227–AD.

Effective Date

(a) This AD becomes effective August 21, 2006.

Affected ADs

(b) This AD supersedes AD 76–11–05 R1.

Applicability

(c) This AD applies to Boeing Model 737–100, –200, and –200C series airplanes, certificated in any category; as identified in Boeing Alert Service Bulletin 737–55A1078, dated October 27, 2005.

Unsafe Condition

(d) This AD results from reports of cracks in the elevator rear spar web at the tab hinge bracket locations. We are issuing this AD to detect and correct cracking, corrosion, interlaminar corrosion, delamination, and disbonding in the elevator rear spar, which may reduce elevator stiffness and lead to in-flight vibration. In-flight vibration may lead to elevator and horizontal stabilizer damage and reduced controllability of the airplane.

Compliance

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

Restatement of Certain Requirements of AD 76–11–05 R1

(f) For Model 737–100, –200, and –200C series airplanes, line number 001 through 491 inclusive: Within the next 300 hours time-in-service after July 24, 1989 (the effective date of AD 76–11–05 R1), unless accomplished within the last 700 hours time-in-service, and at intervals thereafter not to exceed 1,000 hours time-in-service, conduct the inspection required by paragraph (g) of this AD. Accomplishing the initial inspections specified in paragraph (j) of this AD terminates the requirements of this paragraph.

(g) For Model 737–100, –200, and –200C series airplanes, line number 001 through 491 inclusive: At the times specified in paragraph (f) of this AD, inspect for excessive deflection of the elevator tab, right and left hand, in accordance with the inspection procedures specified in Section III, Part I, paragraphs C. and D., of Boeing Alert Service Bulletin 737–55–A1020, Revision 1, dated August 20, 1976; Revision 2, dated February 11, 1977; or 737–55A1020, Revision 3, dated December 22, 1988. If the elevator tab-to-elevator relative deflection exceeds 1/10 inch, prior to further flight, modify the elevator in accordance with paragraph (h) of this AD. Accomplishing the initial inspections specified in paragraph (j) of this AD terminates the requirements of this paragraph.

(h) For Model 737–100, –200, and –200C series airplanes, line number 001 through 491 inclusive: Installation of one of the modifications specified in Boeing Alert Service Bulletin 737–55–A1020, Revision 1, dated August 20, 1976; 737–55–A1020, Revision 2, dated February 11, 1977; or 737–55A1020, Revision 3, dated December 22, 1988; Section III, Part H, including installation of the bolt retainer clips or the preventive modification specified in Boeing Service Bulletin 737–55–1022, Section III, Part II, dated April 15, 1977; is considered terminating action for the inspection requirements of paragraph (g) of this AD.

New Requirements of This AD

Determine Elevator Group Number or Elevator Configuration Number

(i) Within 1,000 flight hours or 750 flight cycles after the effective date of this AD, whichever occurs first, determine the elevator group number or the elevator configuration number in accordance with Appendix A of Boeing Alert Service Bulletin 737–55A1078, dated October 27, 2005.

Initial and Repetitive Inspections

(j) At the applicable time specified in Tables 2 and 3 of paragraph 1.E. "Compliance" of Boeing Alert Service Bulletin 737–55A1078, dated October 27, 2005, except where the alert service bulletin specifies a compliance time from the release date of the alert service bulletin, this AD requires the compliance time after the effective date of this AD: Do the applicable initial detailed and special detailed inspections for interlaminar corrosion, cracking, delamination, or disbonding in the rear spar by doing all the applicable actions specified in Parts I, II, and III of the Accomplishment Instructions of Boeing Alert Service Bulletin 737–55A1078, dated October 27, 2005; except where step 3. of Part III of the alert service bulletin specifies to do a special detailed inspection for spar interlaminar corrosion as given in Figure 3, this AD requires all actions specified in Figure 3 to be done (a detailed inspection for interlaminar corrosion and disbonding and a special detailed inspection for interlaminar corrosion and delamination). Doing the initial inspections terminates the requirements of paragraphs (f) and (g) of this AD.

(k) Repeat the inspections specified in paragraph (j) of this AD at the applicable time specified in Tables 4 and 5 of paragraph 1.E. "Compliance" of Boeing Alert Service Bulletin 737–55A1078, dated October 27, 2005; except where Table B.4 in Appendix B of the alert service bulletin specifies compliance times in flight hours or flight cycles, this AD requires the actions specified in Table B.4 be done at the earlier of the compliance times in flight hours or flight cycles.

Corrective Actions

(l) If any interlaminar corrosion, cracking, delamination, or disbonding is found during any inspection required by this AD: Before further flight, use Appendix C of Boeing Alert Service Bulletin 737–55A1078, dated October 27, 2005, to determine the permitted repairs, and do the applicable repair, including related investigative and corrective actions, by doing all the applicable actions specified in Parts IV through VIII (Interim Repairs) and Part IX (Time-limited Repair) of the Accomplishment Instructions of the alert service bulletin, except as provided by paragraphs (n) and (o) of this AD.

(m) If the time-limited repair specified in Part IX of the Accomplishment Instructions of Boeing Alert Service Bulletin 737–55A1078, dated October 27, 2005, is done: At the time specified in Table 6 of paragraph 1.E. "Compliance" of the alert service bulletin, do the applicable repair, including related investigative and corrective actions, by doing all the applicable actions specified in Parts IV through VI (Interim Repairs) of the alert service bulletin. Thereafter, do the repetitive inspections specified in paragraph (k) of this AD.

(n) Where Boeing Alert Service Bulletin 737–55A1078, dated October 27, 2005, specifies to contact the manufacturer for appropriate action for the inspar rib replacement or for more instructions if any crack is outside the limit specified in the service bulletin: Before further flight, repair in accordance with a method approved by the Manager, Seattle Aircraft Certification Office (ACO), FAA; or using a method approved in accordance with paragraph (p) of this AD.

(o) Where step 3.a. of Part III of the Accomplishment Instructions of Boeing Alert Service Bulletin 737–55A1078, dated October 27, 2005, specifies that if interlaminar corrosion is found, spar replacement is required, this AD requires spar replacement if interlaminar corrosion, delamination, or disbonding is found. Where step 3.C. of Appendix C of the alert service bulletin specifies that for laminated spars that have interlaminar corrosion, only repair options B, C, and D are permitted, this AD specifies that for laminated spars that have interlaminar corrosion, delamination, or disbonding, only repair options B, C, and D are permitted.

Alternative Methods of Compliance (AMOCs)

(p)(1) The Manager, ACO, FAA, has the authority to approve AMOCs for this AD, if requested in accordance with the procedures found in 14 CFR 39.19.

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

(3) An AMOC that provides an acceptable level of safety may be used for any repair required by this AD, if it is approved by an Authorized Representative for the Boeing Commercial Airplanes Delegation Option Authorization Organization who has been authorized by the Manager, Seattle ACO, to make those findings. For a repair method to be approved, the repair must meet the certification basis of the airplane, and the approval must specifically refer to this AD.

(4) Accomplishing the Interim Repair Option C or D specified in the Accomplishment Instructions of Boeing Alert Service Bulletin 737–55A1078, dated October 27, 2005, is an AMOC for the structural modification requirements specified in paragraph A. of AD 90–06–02, amendment 39–6489, that are done in accordance with Boeing Alert Service Bulletins 737–55-A1020 or 737–55A1020, or Boeing Service Bulletin 737–55–1022 only. All provisions of AD 90–06–02 that do not specifically reference these service bulletins remain fully applicable and must be complied with.

(5) AMOCs approved previously in accordance with AD 76–11–05 R1, are approved as AMOCs for the corresponding provisions of paragraphs (f) through (h) of this AD.

Material Incorporated by Reference

(q) You must use the applicable service bulletins listed in Table 1 of this AD to perform the actions that are required by this AD, unless the AD specifies otherwise. The Director of the Federal Register approved the incorporation by reference of these documents in accordance with 5 U.S.C. 552(a) and 1 CFR part 51.

TABLE 1.—MATERIAL INCORPORATED BY REFERENCE

Service Bulletin	Revision level	Date
Boeing Alert Service Bulletin 737–55A1020	1	August 20, 1976.
Boeing Alert Service Bulletin 737–55A1020	2	February 11, 1977.
Boeing Alert Service Bulletin 737–55A1020	3	December 22, 1988.
Boeing Alert Service Bulletin 737–55A1078	Original	October 27, 2005.
Boeing Service Bulletin 737–55–1022	Original	April 15, 1977.

Boeing Alert Service Bulletin 737–55–A1020, Revision 1, dated August 20, 1976, contains the following effective pages:

Page No.	Revision level shown on page	Date shown on page
1, 11–27	1	August 20, 1976.
2–10	Original	May 20, 1976.

Boeing Alert Service Bulletin 737–55–A1020, Revision 2, dated February 11, 1977, contains the following effective pages:

Page No.	Revision level shown on page	Date shown on page
1, 3, 6, 10–12, 14, 16, 25	2	February 11, 1977.
2, 4, 5, 7–9	Original	May 20, 1976.
13, 15, 17–24, 26, 27	1	August 20, 1976.

Contact Boeing Commercial Airplanes, P.O. Box 3707, Seattle, Washington 98124–2207, for a copy of this service information. You may review copies at the Docket Management Facility, U.S. Department of Transportation, 400 Seventh Street, SW., Room PL–401, Nassif Building, Washington, DC; on the Internet at *http://dms.dot.gov;* or at the National Archives and Records Administration (NARA). For information on the availability of this material at the NARA, call (202) 741–6030, or go to *http://www.archives.gov/federal_register/code_of_federal_regulations/ibr_locations.html.*

Issued in Renton, Washington, on July 3, 2006.

Kalene C. Yanamura,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 06–6152 Filed 7–14–06; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2006–24813; Airspace Docket No. 06–AAL–16]

Modification of Legal Description of Class D and E Airspace; Fairbanks, Fort Wainwright Army Airfield, AK

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Direct final rule Correction; request for comments.

SUMMARY: The U.S. Army will soon be changing the name of Fort (Ft.) Wainwright Army Airfield (AAF) to Ladd AAF. This action amends the airport name accordingly for each of the Class D and Class E airspace descriptions in FAA Order 7400.9N. This action also amends an altitude omission which currently does not exist in the FAA Order 7400.9N. This action also redefines the airspace description to account for recent updates to the airfield coordinates.

DATES: This direct final rule is effective, on 0901 UTC, November 23, 2006. Comments for inclusion in the Rules Docket must be received on or before August 16, 2006.

ADDRESSES: Send comments on this proposal to the Docket Management System, U.S. Department of Transportation, Room Plaza 401, 400 Seventh Street, SW., Washington, DC 20590–0001. You must identify the docket number FAA–2006–24813/Airspace Docket No. 06–AAL–16, at the beginning of your comments. You may also submit comments on the Internet at *http://dms.dot.gov.* You may review the public docket containing the proposal, any comments received, and any final disposition in person in the Docket Office between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The Docket Office (telephone 1–800–647–5527) is on the plaza level of the Department of Transportation NASSIF Building at the above address.

FOR FURTHER INFORMATION CONTACT: Gary Rolf, Federal Aviation Administration, 222 West 7th Avenue, Box 14, Anchorage, AK 99513–7587; telephone number (907) 271–5898; fax: (907) 271–2850; e-mail: *gary.ctr.rolf@faa.gov.* Internet address: *http://www.alaska.faa.gov/at.*

SUPPLEMENTARY INFORMATION: The coordinates for this airspace docket are based on North American Datum 83. The Class D airspace and Class E airspace areas designated as 700/1200 foot transition areas are published in paragraph 5000 and 6005 respectively, in FAA Order 7400.9N, *Airspace Designations and Reporting Points,* dated September 1, 2005, and effective September 15, 2005, which is incorporated by reference in 14 CFR 71.1. The Class D and E airspace designations listed in this document would be published subsequently in the Order. Additionally, the present exclusionary clause listed in the Class E5 description is removed. The exclusionary language is redundant and therefore, unnecessary.

The Direct Final Rule Procedure

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

Comments Invited

Interested parties are invited to participate in this rulemaking by submitting such written data, views, or arguments, as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy-related aspects of the proposal. Communications should identify both

docket numbers and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket No. FAA–2006–24813/Airspace Docket No. 06-AAL–16." The postcard will be date/time stamped and returned to the commenter.

Agency Findings

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

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

The FAA's authority to issue rules regarding aviation safety is found in Title 49 of the United States Code. Subtitle 1, Section 106 describes the authority of the FAA Administrator. Subtitle VII, Aviation Programs, describes in more detail the scope of the agency's authority.

This rulemaking is promulgated under the authority described in Subtitle VII, Part A, Subpart 1, Section 40103, Sovereignty and use of airspace. Under that section, the FAA is charged with prescribing regulations to ensure the safe and efficient use of the navigable airspace. This regulation is within the scope of that authority because it follows the U.S. Army's actions in renaming Wainwright AAF to Ladd AAF and thereby changes the Class E airspace description in FAA Order 7400.9N and represents the FAA's continuing effort to safely and efficiently use the navigable airspace.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

Adoption of the Amendment

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

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

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

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

§ 71.1 [Amended]

■ 2. The incorporation by reference in 14 CFR 71.1 of Federal Aviation Administration Order 7400.9N, *Airspace Designations and Reporting Points*, dated September 1, 2005, and effective September 15, 2005, is amended as follows:

Paragraph 5000—General.

* * * * *

AAL AK D Fairbanks, Ladd AAF, AK [Revised]

That airspace extending upward from the surface within a 5.3-mile radius of lat. 64°50′11″ N., long. 147°37′01″ W. to and including 2900 feet MSL, excluding the portion north and west of a line from lat. 64°45′14″ N., long. 147°41′16″ W.; to lat. 64°51′10″ N., long. 147°44′09″ W.; to lat. 64°54′48″ N., long. 147°30′57″ W. This Class D airspace area is effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Alaska Supplement (Airport/Facility Directory).

* * * * *

Paragraph 6004—Class E Airspace Areas Designated as an Extentsion to a Class D Surface Area

AAL AK E4 Fairbanks, Ladd AAF, AK [Revised]

Fairbanks VORTAC
(Lat. 64°48′00″ N., long. 148°00′43″ W.)
Chena NDB
(Lat. 64°50′19″ N., long. 147°29′42″ W.)

That airspace extending upward from the surface within 2.4 miles each side of the Chena NDB 089° bearing extending from the 5.3-mile radius of lat. 64°50′11″ N., long. 147°37′01″ W. to 10.1 miles east of lat. 64°50′11″ N., long. 147°37′01″ W., and within 1.8 miles north of the Fairbanks VORTAC 078° radial extending from the 5.3-mile radius of lat. 64°50′11″ N., long. 147°37′01″ W. to 9.9 miles east of lat. 64°50′11″ N., long. 147°37′01″ W.; excluding the portion of the arrival extension south of a line from lat. 64°48′52″ N., long. 147°12′04″ W. to lat. 64°47′27″ N., long. 147°25′56″ W. This Class E airspace area is effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Alaska Supplement (Airport/Facility Directory).

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

* * * * *

AAL AK E5 Fairbanks, Ladd AAF, AK [Revised]

Fairbanks VORTAC
(Lat. 64°48′00″ N., long. 148°00′43″ W.)
Chena NDB
(Lat. 64°50′19″ N., long. 147°29′42″ W.)

That airspace extending upward from 700 feet above the surface within a 6.8-mile radius of lat. 64°50′11″ N., long. 147°37′01″ W. and within 3.9 miles each side of the 089° bearing of the Chena NDB extending from the 6.8-mile radius to 12.9 miles east of lat. 64°50′11″ N., long. 147°37′01″ W. and within 3.8 miles north of the 078° radial of the Fairbanks VORTAC extending from the 6.8-mile radius to 9.9 miles east of lat. 64°50′11″ N., long. 147°37′01″ W.

* * * * *

Issued in Anchorage, AK, on July 7, 2006.

Anthony M. Wylie,

Director, Flight Service Information Office (AK).

[FR Doc. E6–11168 Filed 7–14–06; 8:45 am]

BILLING CODE 4910–13–P

COMMODITY FUTURES TRADING COMMISSION

17 CFR Part 30

Foreign Futures and Options Transactions

AGENCY: Commodity Futures Trading Commission.

ACTION: Amended Supplemental Order for Expanded Relief.

SUMMARY: The Commodity Futures Trading Commission ("Commission or CFTC") is issuing an Amended Supplemental Order for expanded relief, authorizing members of the Sydney Futures Exchange ("Exchange or SFE") to solicit and accept orders from U.S. customers for otherwise permitted transactions on all non-U.S. and non-Australian exchanges ("foreign exchanges") where such members are authorized by the regulations of the SFE to conduct futures business for customers. The Amended Supplemental Order supercedes the prior Supplemental Orders, relating to expanded relief, issued to SFE in 1997 and 1993. This Amended Supplemental Order is issued pursuant to Commission

Regulation 30.10, which permits the Commission to grant an exemption from certain provisions of Part 30 of the Commission's regulations, and the Commission's Order to SFE dated November 1, 1988 (Original Order), granting relief under Regulation 30.10 to designated members of the Exchange.

DATES: *Effective Date:* July 17, 2006.

FOR FURTHER INFORMATION CONTACT: Lawrence B. Patent, Esq., Deputy Director, or Susan A. Elliott, Esq., Special Counsel, Division of Clearing and Intermediary Oversight, Commodity Futures Trading Commission, 1155 21st Street, NW., Washington, DC 20581. Telephone: (202) 418–5430.

SUPPLEMENTARY INFORMATION: The Commission has issued the following Order: Amended Supplemental Order Under CFTC Regulation 30.10 Exempting Firms Designated by the Sydney Futures Exchange From the Application of Certain of the Foreign Futures and Option Regulations for Trading on Certain Non-U.S. and non-Australian Exchanges ("Foreign Exchanges"), After Filing of Consents by Such Firms and the Sydney Futures Exchange, as Appropriate, to the Terms and Conditions of the Order Herein.

On November 1, 1988, the Commission issued an Order under Regulation 30.10 authorizing designated members of the SFE to offer or sell certain futures and option contracts traded on the Exchange to persons located in the United States.[1] The Original Order limited the scope of permissible brokerage activities undertaken by designated SFE members on behalf of U.S. customers to transactions "on or subject to the rules of the Exchange."[2] Subsequently, the Commission issued Regulation 30.10 orders which did not include this limitation (expanded relief), including such orders to SFE.[3]

A condition of the Commission's grant of expanded relief in 1993 is that SFE carry out its compliance, surveillance and rule enforcement activities with respect to solicitations and acceptance of orders by designated SFE members of U.S. customers for futures business on Recognized Futures Exchanges, as defined in Section 9(b) of the Australian Corporations Law (ACL), other than a contract market designated as such pursuant to section 5a of the Commodity Exchange Act (Act), to the same extent that it conducts such activities with regard to SFE business.

The passage of the Financial Services Reform Act (FSRA) in Australia in March 2002 eliminated the list of Recognized Futures Exchanges as defined in the ACL. A condition for the granting of Part 30 Expanded Relief to SFE in 1993 was that a foreign exchange be included on that list. This Amended Supplemental Order eliminates this condition, and substitutes the condition that SFE must identify in its rules the foreign exchanges on which its members handle transactions on behalf of U.S. customers.[4] SFE has submitted a proposal to its regulator, the Australian Securities and Investments Commission (ASIC),[5] representing that it will identify in its rules the foreign exchanges on which its members may handle transactions on behalf of U.S. customers, pursuant to its expanded relief. SFE will make the rule effective on August 1, 2006.

The relief provided under this Amended Supplemental Order, however, is contingent on the SFE's Exchange Members' continued compliance with the Original Order and the Exchange's and Exchange Members' compliance with the following conditions:

(1) The SFE will carry out its compliance, surveillance and rule enforcement activities with respect to solicitations and acceptance of orders by designated Exchange Members of U.S. customers for options and futures business on all non-U.S. exchanges listed in Rule 2.2.30(a) of the Exchange rules to the same extent that it conducts such activities in regard to Exchange business;

(2) The SFE will cooperate with the Commission with respect to any inquiries concerning any activity that is the subject of this Amended Supplemental Order, including sharing the information specified in Appendix A to the Commission's part 30 regulations, 17 CFR part 30, on an "as needed" basis on the same basis as set forth in the Original Order;

(3) Each SFE Member confirmed for relief under the Original Order seeking to engage in activities that are the subject of this Amended Supplemental Order must agree to provide the books and records related to such activities required to be maintained under the applicable laws and regulations now in effect in Australia and Exchange regulations on the same basis as set forth in the Original Order;[6]

(4) Foreign futures and options exchanges on which each SFE Member firm may engage in transactions on behalf of U.S. customers are those foreign exchanges identified in Rule 2.2.30(a) of the Exchange rules, provided however, that Exchange Members may not engage in any transactions on behalf of U.S. customers on an exchange designated as a contract market under section 5 of the Act;

(5) SFE Members who apply for confirmation of Regulation 30.10 relief with National Futures Association must provide a list of the foreign exchanges where they intend to engage in transactions on behalf of U.S. customers pursuant to the SFE Expanded Relief granted in this order and must agree to abide by the Original Order; and

(6) The SFE will continue to comply with the terms of the Original Order with respect to transactions effected for U.S. customers on the SFE.

This Amended Supplemental Order is issued based on the information provided to the Commission and its staff. Any changes or material omissions may require the Commission to reconsider the authorization granted in this Amended Supplemental Order.

List of Subjects in 17 CFR Part 30

Commodity futures, Commodity options, Foreign futures.

■ Accordingly, the Commission hereby amends Chapter I of Title 17 of the Code of Federal Regulations as follows:

PART 30—FOREIGN FUTURES AND FOREIGN OPTION TRANSACTIONS

■ 1. The authority citation for part 30 continues to read as follows:

Authority: Secs. 1a, 2(a)(1)(A), 4, 4c, and 8a of the Commodity Exchange Act, 7 U.S.C. 1a, 2, 6, 6c and 12a.

Appendix C to Part 30—[Amended]

■ 2. Appendix C to Part 30—Foreign Petitioners Granted Relief from the

[1] 53 FR 44856 (November 7, 1988).

[2] 53 FR at 44857.

[3] 58 FR 19209 (April 13, 1993), hereafter 1993 Supplemental Order, and 62 FR 10445 (March 7, 1997), hereafter 1997 Supplemental Order. The 1997 Supplemental Order clarified certain depository requirements later adopted as Regulation 30.7, 17 CFR 30.7 (2006).

[4] Relief under this Amended Supplemental Order extends only to those products falling within the jurisdiction of the Act and remains subject to existing product restrictions under the Act and Commission regulations thereunder related to stock indices and foreign government debt (see Section 2(a)(1)(B)(v) of the Act and Securities and Exchange Commission Regulation 3a12–8, 17 CFR 240.3a12–8 (2006)).

[5] Letter of April 3, 2006 from Barbara Jones, Senior Legal Counsel, SFE, to Ms. Tracey Lyons, Director, Markets Regulation, ASIC.

[6] SFE member firms that currently operate under the Original Order will be deemed to have consented to condition (3) by effecting transactions pursuant to this Amended Supplemental Order. Exchange members who apply for confirmation of Regulation 30.10 relief subsequent to the issuance of this Amended Supplemental Order must submit representations to the National Futures Association consistent with condition (3) of this Order, and the list of foreign exchanges required by condition (4), as well as the representations required by the Original Order.

Application of Certain of the Part 30 Rules. The following citation is added:

Firms designated by the Sydney Futures Exchange Limited.

* * * * *

FR date and citation: 70 FR [insert number of page on which this release begins] July 17, 2006.

* * * * *

Issued in Washington, DC, on July 11, 2006.

Eileen A. Donovan,

Acting Secretary of the Commission.

[FR Doc. E6–11152 Filed 7–14–06; 8:45 am]

BILLING CODE 6351–01–P

DEPARTMENT OF THE TREASURY

Alcohol and Tobacco Tax and Trade Bureau

27 CFR Part 9

[T.D. TTB–52; Re: Notice No. 55]

RIN 1513–AB15

Establishment of the Saddle Rock-Malibu Viticultural Area (2003R–110P)

AGENCY: Alcohol and Tobacco Tax and Trade Bureau, Treasury.

ACTION: Final rule; Treasury decision.

SUMMARY: This Treasury decision establishes the 2,090-acre Saddle Rock-Malibu viticultural area in Los Angeles County, California. We designate viticultural areas to allow vintners to better describe the origin of their wines and to allow consumers to better identify wines they may purchase.

DATES: *Effective Date:* August 16, 2006.

FOR FURTHER INFORMATION CONTACT: N.A. Sutton, Regulations and Rulings Division, Alcohol and Tobacco Tax and Trade Bureau, 925 Lakeville St., No. 158, Petaluma, CA 94952; telephone 415–271–1254.

SUPPLEMENTARY INFORMATION:

Background on Viticultural Areas

TTB Authority

Section 105(e) of the Federal Alcohol Administration Act (the FAA Act, 27 U.S.C. 201 *et seq.*) requires that alcohol beverage labels provide consumers with adequate information regarding product identity and prohibits the use of misleading information on those labels. The FAA Act also authorizes the Secretary of the Treasury to issue regulations to carry out its provisions. The Alcohol and Tobacco Tax and Trade Bureau (TTB) administers these regulations.

Part 4 of the TTB regulations (27 CFR part 4) allows the establishment of definitive viticultural areas and the use of their names as appellations of origin on wine labels and in wine advertisements. Part 9 of the TTB regulations (27 CFR part 9) contains the list of approved viticultural areas.

Definition

Section 4.25(e)(1)(i) of the TTB regulations (27 CFR 4.25(e)(1)(i)) defines a viticultural area for American wine as a delimited grape-growing region distinguishable by geographical features, the boundaries of which have been recognized and defined in part 9 of the regulations. These designations allow vintners and consumers to attribute a given quality, reputation, or other characteristic of a wine made from grapes grown in an area to its geographical origin. The establishment of viticultural areas allows vintners to describe more accurately the origin of their wines to consumers and helps consumers to identify wines they may purchase. Establishment of a viticultural area is neither an approval nor an endorsement by TTB of the wine produced in that area.

Requirements

Section 4.25(e)(2) of the TTB regulations outlines the procedure for proposing an American viticultural area and provides that any interested party may petition TTB to establish a grape-growing region as a viticultural area. Section 9.3(b) of the TTB regulations requires the petition to include—

- Evidence that the proposed viticultural area is locally and/or nationally known by the name specified in the petition;
- Historical or current evidence that supports setting the boundary of the proposed viticultural area as the petition specifies;
- Evidence relating to the geographical features, such as climate, soils, elevation, and physical features, that distinguish the proposed viticultural area from surrounding areas;
- A description of the specific boundary of the proposed viticultural area, based on features found on United States Geological Survey (USGS) maps; and
- A copy of the appropriate USGS map(s) with the proposed viticultural area's boundary prominently marked.

Saddle Rock-Malibu Viticultural Area Petition and Rulemaking

Background

Lisa A. Semler and Derek Baugh of Semler Malibu Estate Vineyards in Malibu, California, submitted a petition to establish the Saddle Rock-Malibu viticultural area. Located in western Los Angeles County, California, the proposed viticultural area covers approximately 2,090 acres in the Santa Monica Mountains, approximately 32 miles west of downtown Los Angeles and 5 miles inland from the Pacific Ocean. The proposed area lies between 1,700 and 2,236 feet in elevation and has 70 acres of vineyards located between 1,800 and 2,000 feet in elevation.

The primary distinguishing viticultural features of the proposed Saddle Rock-Malibu viticultural area include its high elevation and location, as well as its orientation within the Santa Monica Mountains, which limits its exposure to the cooling Pacific marine inversion layer, according to the petition. As a result, the proposed area receives more solar radiation and is warmer than neighboring areas with more marine influence during the growing season.

The information submitted in support of the petition is summarized below.

Name Evidence

The name of the proposed Saddle Rock-Malibu viticultural area combines the name of a high, prominent rock formation within the proposed area, Saddle Rock, with the name of the surrounding region of western Los Angeles County, Malibu. According to the petition, the "Saddle Rock-Malibu" name provides an accurate geographical description of the proposed viticultural area.

Located in the Santa Monica Mountains near the center of the proposed area, Saddle Rock is a prominent saddle-shaped rock formation that rises 2,000 feet above sea level. Saddle Rock is identified on the USGS Point Dume, California, quadrangle map in section 12, T1S/R19W. Saddle Rock Ranch is located within the proposed viticultural area, and the Saddle Rock Pictograph Site, located on the ranch between Saddle Rock and Mitten Rock, is a National Historic Landmark. The pictographs found at the Saddle Rock site are characteristic of the Chumash Indian art style, according to the National Park Service's National Historic Landmark Web site, which also notes that Saddle and Mitten Rocks served as landmarks for prehistoric and early historic travelers (see *http://www.cr.nps.gov/nhl/DOE_dedesignations/saddlerock.htm*).

The Malibu region, which the petition describes as encompassing western Los Angeles County from the ridge line of the Santa Monica Mountains in the north to the Pacific Ocean in the south

and from Topanga Canyon in the east to the Ventura County line in the west, surrounds the Saddle Rock area. The Malibu region is shown on the July 2001 American Automobile Association map titled, "Coast & Valley Bay Area to Southern California," in section G–12. The USGS Geographic Names Information System lists 30 Malibu name uses within Los Angeles County, including streams, beaches, lakes, a reservoir, parks, towns, buildings, and an airport.

TTB's predecessor agency, the Bureau of Alcohol, Tobacco and Firearms (ATF), established the Malibu-Newton Canyon viticultural area (27 CFR 9.152) in T.D. ATF–375, published in the **Federal Register** (61 FR 29952) on June 13, 1996. The preamble of T.D. ATF–375 explained that the "Malibu" name originated with the Chumash Indians as "Mala I Boo," meaning "place of cliffs." The 1805 Topanga Malibu Sequit land grant of 13,315 acres, also referred to as Rancho Malibu, includes the modern day "Malibu" spelling. In the 1930s, with the construction of the Pacific Coast Highway, the petition states that the Malibu region developed into the nationally known community it is today.

Boundary Evidence

The modern history of the proposed Saddle Rock-Malibu viticultural area dates to the era of Spanish colonial land grants, and the proposed area lies between the historic Topanga Malibu Sequit land grant to the south and the El Conejo land grant to the north. Originally known as "El Malibu," the petition states that the ranch surrounding the Saddle Rock formation was, by the 1930s, known as Saddle Rock Ranch. Wine grape production within the proposed Saddle Rock-Malibu viticultural area began in 1997, according to the petition, and as of February 2005 the area had 70 vineyard acres in commercial production.

Roughly centered on the Saddle Rock formation, the proposed Saddle Rock-Malibu viticultural area encompasses a suspended valley within the higher elevations of the Santa Monica Mountains. Beginning at Decker Road, the northern boundary of the proposed area follows a portion of the southern boundary of the El Conejo land grant, and then follows the 1,700-foot contour line southeasterly to Mulholland Highway. Steep mountain terrain lies to the east and south of the proposed Saddle Rock-Malibu area, while the Malibu Country Club lies to its west. The petition uses trails, unimproved roads, and secondary roads to delineate the eastern, southern, and western portions of the proposed boundary, according to the written boundary description and USGS Point Dume map provided with the petition.

Distinguishing Features

The proposed Saddle Rock-Malibu viticultural area's high elevations, north-facing slope orientation, and geographical location in the Santa Monica Mountains all combine to create a microclimate with limited marine influence, according to the petition. As compared to surrounding areas with more marine influence, the proposed area receives more growing season sunshine and has warmer temperatures. The proposed area's microclimate, the petition continues, creates a distinctive and unique mountainous grape-growing region.

Topography

The proposed Saddle Rock-Malibu viticultural area, according to the petition, is a geographically suspended valley located largely on the leeward side of the crest of the Santa Monica Mountains. From the mountains' crest, elevations drop about 2,000 feet to the Pacific Ocean in the south and, in the north, about 1,000 feet to the Conejo Valley floor. Within the proposed viticultural area, elevations range from a low of 1,700 feet along much of the boundary line to a 2,236-foot peak along its northeast border, as shown on the Point Dume map. Intermittent streams flow from the higher elevations downward toward the Pacific Ocean or toward larger streams in the Conejo Valley to the north. Several secondary highways, light-duty roads, and a number of unimproved roads and jeep trails criss-cross the proposed Saddle Rock area, as shown on the Point Dume USGS map.

Climate

The unique microclimate of the proposed Saddle Rock-Malibu viticultural area is its most distinguishing viticultural feature, according to the petition, which included a climate report prepared by Fox Weather of Fortuna, California. While the larger Malibu regional climate is typical of southern California with mild, rainy winters and warm, dry summers, the petition states that the proposed Saddle Rock-Malibu viticultural area is climatically affected by its geographical location in the Santa Monica Mountains.

The Pacific Ocean, about 5 miles south of the proposed viticultural area, provides an intrusive marine influence that permeates the Santa Monica Mountains area incrementally, based on elevation, time of year, and other factors, according to Fox Weather. In this region of Los Angeles County, this cool, moist, marine influence funnels northward from the ocean, through the low gaps in the mountain range, reaching various elevations at different times in the growing season. The proposed Saddle Rock-Malibu viticultural area's high elevations, its location on the leeward side of the mountains' crest, and its north-facing mountain slopes are significant factors in limiting the extent of the cooling marine influence received within the proposed area, according to the submitted Fox Weather data.

Summers in the Malibu region are hot and dry at the higher elevations above the marine influence and are cooler and less sunny in the lower coastal areas and beaches, according to Fox Weather. A comparison of growing season heat accumulation as measured by degree-days shows that the proposed Saddle Rock-Malibu viticultural area, at 4,200 degree-days, is somewhat warmer than the nearby Malibu-Newton Canyon viticultural area, which accumulates 4,000 to 4,100 degree days during the growing season. (Degree-days represent a measurement of heat accumulation during the growing season, with one degree-day accumulating for each degree that a day's mean temperature is above 50 degrees Fahrenheit, which is the minimum temperature required for grapevine growth. See "General Viticulture," by Albert J. Winkler, University of California Press, 1975.) Further inland, toward the San Fernando Valley, temperatures are warmer during the day and cooler at night than along the crest of the Santa Monica Mountains.

The temperature and growing condition differences between the proposed Saddle Rock-Malibu viticultural area and the established Malibu-Newton Canyon viticultural area result from the prevailing wind flows of summer (south through west-northwest directions), according to the submitted Fox Weather data. Located on the leeward side of the Santa Monica Mountains' crest, the proposed Saddle Rock-Malibu area receives more sunshine and has higher daytime temperatures than the Malibu-Newton Canyon area, which is located just southeast of the Saddle Rock-Malibu area on the windward side of the mountain crest and is, therefore, more strongly influenced by the cooling Pacific marine air. Also, the warm, down slope wind that affects the Saddle Rock-Malibu area is less evident in the Malibu-Newton Canyon area.

Soils

Predominant soils of the proposed Saddle Rock-Malibu viticultural area include Cropley clay, Gilroy clay loam and rocky clay loam, and Hambright loam, clay loam and rocky clay loam, according to Robert Roche of Roche Vineyard Consulting in his June 5, 2004, letter to the petitioners.

The U.S. Department of Agriculture's Soil Conservation Service (now the Natural Resources Conservation Service) publication, "Soils of the Malibu Area California" (October 1967), states at pages 65 and 66 that Cropley clay is well drained with slow permeability. Cropley clay occupies nearly level to moderately sloping alluvial fans, and bedrock is found more than 5 feet below the surface. According to the 1967 "Soils of the Malibu Area California" publication, Gilroy clays are well drained with slow permeability. They occupy gently rolling to steep upland areas, and bedrock is generally found between 2 feet and 3⅓ feet below the surface. Hambright clay loams, described on pages 72 and 73 of the 1967 Malibu area soil publication, are well drained with moderate permeability. They occupy moderately steep to very steep upland areas, and bedrock is found from ⅔ foot to 1½ feet below the surface.

A comparison of the soils of the proposed Saddle Rock-Malibu viticultural area to those in the existing Malibu-Newton Canyon viticultural area shows distinct soil differences.

Proposed Saddle Rock-Malibu viticultural area soils	Established Malibu-Newton Canyon viticultural area soils
Gilroy rocky clay loam and clay loams.	Gilroy clay loam.
Hambright loam, clay loam, and rocky clay loam.	Hambright rocky clay loam.
Cropley clay	Castaic silty clay loam. Malibu loam. Malcolm loam. Rincon silty clay loam.

The Hambright rocky clay loam and Gilroy clay loam series dominate the proposed Saddle Rock-Malibu area's northeast region, according to Robert Roche. He explains that although these two series are found throughout California, they contrast to the igneous rock found in the eastern area immediately beyond the proposed Saddle Rock-Malibu viticultural area boundary line. Mr. Roche compares the Malibu-Newton Canyon viticultural area to the proposed Saddle Rock-Malibu viticultural area by describing the Saddle Rock-Malibu area's soils as "deeper with more clay content overall, leading to more water holding capacity." He explains that the "soil series and descriptions are different enough" between the two areas to conclude that "wine characteristics would be significantly different." The northeast corner of the proposed Saddle Rock-Malibu viticultural area, the petition states, has the most evident differences in soil as compared to the region immediately beyond the boundary line.

The petition, however, emphasizes that soil differences of the proposed Saddle Rock-Malibu area play a lesser role than the climate and physical geography in defining the distinctiveness of the proposed viticultural area.

Notice of Proposed Rulemaking and Comments Received

TTB published Notice No. 55 regarding the proposed Saddle Rock-Malibu viticultural area in the **Federal Register** (71 FR 1500) on January 10, 2006. We received 113 comments in response to that notice. All 113 comments supported the establishment of the Saddle Rock-Malibu viticultural area, and some specifically discussed the unique geography and microclimate of the region.

TTB Finding

After careful review of the petition and the comments received, TTB finds that the evidence submitted supports the establishment of the proposed viticultural area. Therefore, under the authority of the Federal Alcohol Administration Act and part 4 of our regulations, we establish the "Saddle Rock-Malibu" viticultural area in Los Angeles County, California, effective 30 days from the publication date of this document.

Boundary Description

See the narrative boundary description of the viticultural area in the regulatory text published at the end of this document.

Maps

The one map used to determine the boundary of the viticultural area is identified below in the regulatory text.

Impact on Current Wine Labels

Part 4 of the TTB regulations prohibits any label reference on a wine that indicates or implies an origin other than the wine's true place of origin. With the establishment of this viticultural area and its inclusion in part 9 of the TTB regulations, its name, "Saddle Rock-Malibu," is recognized under 27 CFR 4.39(i)(3) as a name of viticultural significance. The text of the new regulation clarifies this point. Consequently, wine bottlers using "Saddle Rock-Malibu" in a brand name, including a trademark, or in another label reference as to the origin of the wine, must ensure that the product is eligible to use the viticultural area's name as an appellation of origin.

For a wine to be eligible to use as an appellation of origin a viticultural area name or other term specified as being viticulturally significant in part 9 of the TTB regulations, at least 85 percent of the wine must be derived from grapes grown within the area represented by that name or other term, and the wine must meet the other conditions listed in 27 CFR 4.25(e)(3). If the wine is not eligible to use the viticultural area name or other term as an appellation of origin and that name or other term appears in the brand name, then the label is not in compliance and the bottler must change the brand name and obtain approval of a new label. Similarly, if the viticultural area name or other term appears in another reference on the label in a misleading manner, the bottler would have to obtain approval of a new label.

Different rules apply if a wine has a brand name containing a viticultural area name that was used as a brand name on a label approved before July 7, 1986. See 27 CFR 4.39(i)(2) for details.

Regulatory Flexibility Act

We certify that this regulation will not have a significant economic impact on a substantial number of small entities. This regulation imposes no new reporting, recordkeeping, or other administrative requirement. Any benefit derived from the use of a viticultural area name is the result of a proprietor's efforts and consumer acceptance of wines from that area. Therefore, no regulatory flexibility analysis is required.

Executive Order 12866

This rule is not a significant regulatory action as defined by Executive Order 12866, 58 FR 51735. Therefore, it requires no regulatory assessment.

Drafting Information

N.A. Sutton of the Regulations and Rulings Division drafted this document.

List of Subjects in 27 CFR Part 9

Wine.

The Regulatory Amendment

■ For the reasons discussed in the preamble, we amend title 27 CFR, chapter 1, part 9, as follows:

PART 9—AMERICAN VITICULTURAL AREAS

■ 1. The authority citation for part 9 continues to read as follows:

Authority: 27 U.S.C. 205.

Subpart C—Approved American Viticultural Areas

■ 2. Subpart C is amended by adding a new § 9.203 to read as follows:

§ 9.203 Saddle Rock-Malibu.

(a) *Name.* The name of the viticultural area described in this section is "Saddle Rock-Malibu". For purposes of part 4 of this chapter, "Saddle Rock-Malibu" is a term of viticultural significance.

(b) *Approved Map.* The following United States Geological Survey, 1:24,000 scale, topographic map is used to determine the boundary of the Saddle Rock-Malibu viticultural area: Point Dume Quadrangle California, 7.5–Minute Series (Orthophotoquad), 1995.

(c) *Boundary.* The Saddle Rock-Malibu viticultural area is located in Los Angeles County, California. The boundary of the Saddle Rock-Malibu viticultural area is as described below:

(1) The beginning point is on the Point Dume map at the intersection of Decker Road and Mulholland Highway, section 3, T1S/R19W;

(2) From the beginning point, proceed north-northeast along Decker Road approximately 0.7 mile to its intersection with the southern boundary of the El Conejo land grant, section 3, T1S/R19W; then

(3) Proceed straight east-southeast along the El Conejo land grant boundary line approximately 0.4 mile to the point where the land grant boundary line changes direction to the northeast, section 2, T1S/R19W; then

(4) Proceed straight northeast for approximately 0.5 mile along the El Conejo land grant boundary line to its second intersection with the 1,700-foot contour line in section 2, T1S/R19W; then

(5) Proceed southeasterly along the meandering 1,700-foot contour line, crossing the R19W/R18W range line near the southwest corner of section 6, T1S/R18W, and continue along the 1,700-foot contour line to its intersection with Kanan Road near the southwest corner of section 6, T1S/R18W; then

(6) Proceed south along Kanan Road approximately 0.35 mile to its intersection with the 1,800-foot contour line (very near the intersection of Kanan Road and an unnamed unimproved road), section 7, T1S/R18W; then

(7) Proceed southeasterly along the meandering 1,800-foot contour line to a point approximately 200 feet due north of the intersection of Mulholland Highway and two unnamed, unimproved roads near the center of section 7, T1S/R18W, and, from that point, proceed due south in a straight line to the intersection of Mulholland Highway and the two unnamed, unimproved roads, section 7, T1S/R18W; then

(8) Following the eastern-most unimproved road, proceed southerly along the meandering unimproved road, passing to the west of a 2,054-foot peak, and continue to the road's intersection with another unnamed, unimproved road immediately south of the section 18 north boundary line and due east of a 2,448-foot peak, section 18, T1S/R18W; then

(9) Proceed southwesterly along the unnamed, unimproved road to its intersection with the Latigo Canyon Road, just east of BM 2125, section 18, T1S/R18W; then

(10) Proceed northerly then westerly along Latigo Canyon Road to its intersection with Kanan Road very near the southeast corner of section 12, T1S/R19W; then

(11) Proceed south along Kanan Road for approximately 0.6 mile to its intersection with the 1,700-foot contour line, located immediately south of the four-way intersection of two unnamed, unimproved roads and Kanan Road, section 13, T1S/R19W; then

(12) Proceed 1.5 miles generally west and northwest along the unnamed, unimproved road that meanders westerly, crossing over several intermittent streams, and continues through Zuma Canyon to its intersection with Encinal Canyon Road at about the 1,806-foot elevation mark, section 11, T1S/R19W; then

(13) Crossing Encinal Canyon Road, proceed northwesterly along the unnamed, unimproved road, which becomes a trail, and continue northerly to the trail's intersection with the 1,900-foot contour line, near the center of section 11, T1S/R19W; then

(14) Proceed northwesterly along the meandering 1,900-foot contour line, circling to the west of the 2,189-foot peak in section 11, to the contour line's intersection with Mulholland Highway at the northern boundary of section 11, T1S/R19W; then

(15) Proceed westerly about 0.8 mile on Mulholland Highway and return to the beginning point.

Signed: May 9, 2006.

John J. Manfreda,

Administrator.

Approved: June 15, 2006.

Timothy E. Skud,

Deputy Assistant Secretary (Tax, Trade, and Tariff Policy).

[FR Doc. E6–11076 Filed 7–14–06; 8:45 am]

BILLING CODE 4810–31–P

DEPARTMENT OF THE TREASURY

Alcohol and Tobacco Tax and Trade Bureau

27 CFR Part 9

[T.D. TTB–51; Re: Notice No. 15]

RIN 1513–AA41

Establishment of the Eola-Amity Hills Viticultural Area (2002R–216P)

AGENCY: Alcohol and Tobacco Tax and Trade Bureau (TTB), Treasury.

ACTION: Final rule; Treasury decision.

SUMMARY: This Treasury decision establishes the Eola-Amity Hills viticultural area in Oregon. The viticultural area is entirely within the existing Willamette Valley viticultural area and encompasses roughly 37,900 acres within Polk and Yamhill Counties. We designate viticultural areas to allow vintners to better describe the origin of their wines and to allow consumers to better identify wines they may purchase.

DATES: *Effective Date*: August 16, 2006.

FOR FURTHER INFORMATION CONTACT: Jennifer Berry, Alcohol and Tobacco Tax and Trade Bureau, Regulations and Rulings Division, P.O. Box 18152, Roanoke, Virginia 24014; telephone 540–344–9333.

SUPPLEMENTARY INFORMATION:

Background on Viticultural Areas

TTB Authority

Section 105(e) of the Federal Alcohol Administration Act (the FAA Act, 27 U.S.C. 201 *et seq.*) requires that alcohol beverage labels provide consumers with adequate information regarding product identity and prohibits the use of misleading information on those labels. The FAA Act also authorizes the Secretary of the Treasury to issue regulations to carry out its provisions. The Alcohol and Tobacco Tax and Trade Bureau (TTB) administers these regulations.

Part 4 of the TTB regulations (27 CFR part 4) allows the establishment of definitive viticultural areas and the use of their names as appellations of origin

on wine labels and in wine advertisements. Part 9 of the TTB regulations (27 CFR part 9) contains the list of approved viticultural areas.

Definition

Section 4.25(e)(1)(i) of the TTB regulations (27 CFR 4.25(e)(1)(i)) defines a viticultural area for American wine as a delimited grape-growing region distinguishable by geographical features, the boundaries of which have been recognized and defined in part 9 of the regulations. These designations allow vintners and consumers to attribute a given quality, reputation, or other characteristic of a wine made from grapes grown in an area to its geographical origin. The establishment of viticultural areas allows vintners to describe more accurately the origin of their wines to consumers and helps consumers to identify wines they may purchase. Establishment of a viticultural area is neither an approval nor an endorsement by TTB of the wine produced in that area.

Requirements

Section 4.25(e)(2) of the TTB regulations outlines the procedure for proposing an American viticultural area and provides that any interested party may petition TTB to establish a grape-growing region as a viticultural area. Section 9.3(b) of the TTB regulations requires the petition to include—

- Evidence that the proposed viticultural area is locally and/or nationally known by the name specified in the petition;
- Historical or current evidence that supports setting the boundary of the proposed viticultural area as the petition specifies;
- Evidence relating to the geographical features, such as climate, soils, elevation, and physical features, that distinguish the proposed viticultural area from surrounding areas;
- A description of the specific boundary of the proposed viticultural area, based on features shown on United States Geological Survey (USGS) maps; and
- A copy of the appropriate USGS map(s) with the proposed viticultural area's boundary prominently marked.

Rulemaking Proceedings

Eola Hills Petition

Mr. Russell Raney of Evesham Wood Vineyard and Mr. Ted Casteel of Bethel Heights Vineyard, both of Salem, Oregon, petitioned TTB for the establishment of a viticultural area to be called "Eola Hills." The proposed viticultural area is within the State of Oregon and entirely within the existing Willamette Valley viticultural area described in 27 CFR 9.90. The petitioners estimate that the proposed area encompasses 37,900 acres, about 1,244 acres of which are planted to vines. At the time of the petition, 12 wineries operated within the proposed area. We summarize below the evidence submitted with the petition.

Name Evidence

As historical evidence of the use of the name "Eola Hills," the petitioners submitted an excerpt from "Oregon Geographic Names" (published by the Oregon Historical Society, 5th edition, 1982, pp. 294–295). This source states that the Eola Hills were named for the village of Eola, situated at the southern end of the ridge. On January 17, 1856, the Oregon territorial legislature incorporated the village as "Eola," a name derived from Aeolus, the Classical Greek god of winds. The source further states that the Eola Hills "constitute one of the important groups of isolated hills in the Willamette Valley." It goes on to explain that the hills have been known by other names, but the name "Eola Hills seems firmly established."

For additional name evidence, the petitioners also submitted several maps that identify the area as "Eola Hills." Four of the USGS maps used to show the boundaries (Rickreall, Salem West, Mission Bottom, and Amity) identify the area as Eola Hills. The petitioners also submitted two geologic maps of the area issued by the State of Oregon's Department of Geology and Mineral Industries. Both prominently label the area "Eola Hills."

According to the petitioners, Eola Hills has name recognition and a reputation for quality among wine consumers both in and outside of Oregon. For this reason, vineyards and wineries within the area utilize the name frequently in their promotional literature. The petitioners submitted two promotional maps demonstrating this fact. One map, entitled "The Wine Appellations of Oregon," issued by the Oregon Wine Marketing Coalition, portrays the Eola Hills area as a subregion within the Willamette Valley. The other map, entitled "Eola Hills Winegrowing Region, Willamette Valley Oregon," shows the location of all vineyards and wineries in the area.

The petitioners note that a small portion of the proposed viticultural area is sometimes referred to as "Amity Hills." "Oregon Geographic Names" describes the Amity Hills as a northern extension of the Eola Hills separated from the main ridge by a pass east of the town of Amity. USGS maps for McMinnville and Amity, Oregon, identify this area as Amity Hills. However, the geologic maps issued by Oregon's Department of Geology and Mineral Industries identify this area as part of the Eola Hills. The petitioners argue that, for the purpose of wine designation, consumers in Oregon have come to recognize the entire area as a single unit known as "Eola Hills." They also state that vintners in the Amity Hills portion of the area support the designation of Eola Hills for the entire area.

Boundary Evidence

As evidence of the boundary, the petitioners submitted with the petition six USGS topographic maps on which the Eola Hills are dominant features. The main ridge of the Eola Hills runs north to south, starting approximately 5¾ miles northeast of the town of Amity and extending south for 16 miles to Oregon Highway 22, just north of the Willamette River at West Salem. At their widest point, toward the southern end, the Eola Hills are about 6½ miles across, from Wallace Road in the east to U.S. Highway 99 in the west.

The petitioners use the 200-foot contour line as the predominant boundary marker. They note that they occasionally diverge to use roads or highways where they form a more convenient boundary and to exclude land not deemed suitable for grape cultivation due to soil type, elevation, or urban development.

Distinguishing Features

Soils and Geology

The petitioners state that the soils and geology of the Eola Hills, compared to those of the surrounding areas, are distinctive in two regards. The petitioners note that the prevailing basalt-derived soils of the Eola Hills are shallower than the soils of other hills in the north Willamette Valley, and that these well drained basalt soils are very different from the alluvial soils of the surrounding valley floor.

As evidence of these differences, the petitioners submitted two geologic maps issued by the State of Oregon's Department of Geology and Mineral Industries. One is entitled "Geologic Map of the Rickreall and Salem Quadrangles, Oregon;" the other is entitled "Preliminary Geologic Map of the Amity and Mission Bottom Quadrangles, Oregon." According to these documents, volcanic basalt rock from the lava flows of the Miocene epoch underlies the Eola Hills, and marine sedimentary rock of the Oligocene epoch underlies areas at the lower elevations of the ridge. The soils

at the middle and higher elevations of the Eola Hills are largely well drained silty clay loams weathered from basalt; those on the lower slopes are silt loams weathered predominantly from sedimentary rock, particularly on the west-facing slopes.

According to soil survey maps issued by the U.S. Department of Agriculture, Soil Conservation Service, the dominant basalt-derived soils on the Eola Hills are Nekia soils (recently reclassified as Gelderman soils) and Ritner and Jory soils. The preponderance of the shallower Nekia and Gelderman soils in the Eola Hills differentiates the Eola Hills from the Red Hills farther north, where Jory soils are predominant. Nekia and Gelderman soils have a much lower available water capacity than Jory soils. The most common sedimentary soils on the Eola Hills are Steiwer, Chehulpum, and Helmick soils, especially on the west side of the ridge. Also in the Eola Hills are soils formed in alluvial deposits, the most common of which are the silt loam Woodburn soils. Such alluvial soils generally are only at the lowest elevations of the proposed viticultural area (below 300 feet). Like the soils mentioned above, these alluvial soils also are suitable for wine grapes if they are on slopes steep enough for good water drainage.

Finally, the Eola Hills are surrounded on almost all sides by, and are easily distinguished from, terraces of the Willamette Valley. With few exceptions, the terraces lie below the 200-foot elevation line and are characterized by less drained alluvial soils. According to the petitioners, the soils on these terraces generally are not suitable for the cultivation of premium wine grapes. Therefore, land below an elevation of 200 feet is not included within the proposed Eola Hills boundary.

Topography

The main ridge of the Eola Hills runs north-south and has numerous lateral ridges that run east-west on both sides. Slopes on the west side of the ridge tend to be somewhat steeper and pocketed, and they fall away below an elevation of 200 feet more abruptly than the slopes on the east side, which tend to be gentler and more extensive. Both sides, however, provide vineyard sites with very similar soils and growing conditions. The highest point in the south end of the hills is 1,093 feet. In the central area, near the Polk-Yamhill County line, the ridge peaks at around 1,160 feet; in the north, it peaks at 863 feet. The majority of vineyards in the Eola Hills are at elevations ranging from 250 to 700 feet, although suitable sites, given proper sun exposure and microclimate, are found above these elevations. Most vineyards in the Eola Hills have a southern, southwestern, or southeastern orientation. However, on gently sloping terrain, east- and west-facing sites are also capable of producing high quality wine grapes.

Climate

According to the petitioners, the Eola Hills are blessed with a temperate climate. Summers are warm, but seldom excessively hot; winters are mild, and in winter, temperatures are usually above freezing. Annual rainfall ranges from under 40 inches on the southeastern edge of the Eola Hills to more than 45 inches in the higher elevations. More important, only about 15 percent of the total annual rainfall in the mid-Willamette Valley occurs from April through September. Thus, rainfall averages during the growing season are uniform throughout the Eola Hills.

The petitioners state that the Eola Hills are influenced more by their position due east of the Van Duzer corridor than by their location in the rain shadow of the Coast Range. Summer ocean winds vented through the corridor often cause dramatic late afternoon drops in temperature, which further distinguish the area from the hills further north. During the growing season, average maximum temperatures at the middle elevations range from 62 °F in April to 83 °F in July. These factors contribute to the ideal conditions for the "cool-climate" grape varieties that dominate in Eola Hills vineyards, such as Pinot Noir, Pinot Gris, and Chardonnay.

The petitioners note that due to the effects of thermal inversion, during the growing season heat accumulation is greater on the slopes of the Eola Hills than on the floor of the surrounding Willamette Valley. Cool air, which drains toward the valley floor during the night, layers warmer air on the lower slopes. The petitioners submitted monthly heat accumulation data that compared a site at the Salem, OR airport on the valley floor with a site at the Seven Springs Vineyard in the Eola Hills for the years 1992–95. The data showed that, for those years, seasonal heat accumulation at the Seven Springs Vineyard site was consistently higher than that at the Salem airport site. Typically, the Seven Springs Vineyard site in the Eola Hills has. during the growing season (April 1 to October 31), a heat accumulation range of 2,300–2,500 degree days, with a base of 60 °F. Based on standards for determining climatic regions using temperature summation, this heat accumulation range places the vineyard high in the Region 1 category (2,500 degree days or less).

Notice of Proposed Rulemaking

On September 8, 2003, TTB published in the **Federal Register** (68 FR 52875) as Notice No. 15 a notice of proposed rulemaking regarding the establishment of the Eola Hills viticultural area. The comment period was originally scheduled to end on November 7, 2003. However, we received a request from a winery, Eola Hills Wine Cellars, Inc., of Salem, Oregon, to extend the comment period an additional 60 days. The winery stated it needed additional time to gather evidence to support its comment. In consideration of this and in light of the impact that the approval of the proposed Eola Hills viticultural area might have on Eola Hills Wine Cellars' wine labels, we published Notice No. 22 on November 7, 2003 (68 FR 63042), extending the comment period to January 6, 2004.

Comments Received

TTB received 86 comments regarding the proposed Eola Hills viticultural area. Nearly all of the comments discussed the impact that establishment of an area named "Eola Hills" would have on Eola Hills Wine Cellars and its existing labels.

Eola Hills Wine Cellars, in its comments, opposed the proposed name because it would severely restrict its ability to use its "Eola Hills" and "Eola Hills Wine Cellars" brand names. The winery noted that because it depends on grapes from outside the proposed Eola Hills viticultural area to produce the wines labeled with these brand names, its wines will not qualify for viticultural area labeling. At least 85 percent of the wine must be derived from grapes grown within the viticultural area in order for the winery to use its brand names. The winery stated that it must obtain some of its grapes from outside the Eola Hills area in order to maintain consistent production. Even though the winery has been using the "Eola Hills Wine Cellars" brand name on its labels since 1988, it is ineligible for the grandfather provision in 27 CFR 4.39(i)(2), which applies only to brand names used on certificates of label approval issued prior to July 7, 1986. The winery stated that it has worked for years building recognition for its brand names. To lose the use of these names would be, it stated, financially devastating to the winery.

The winery also argued that naming the area "Eola Hills" will cause consumers to confuse wines labeled with the new viticultural area name with Eola Hills Wine Cellars' wines. It

contends that the Eola Hills area is known to consumers because of the reputation of Eola Hills Wine Cellars, and the petitioners are capitalizing on this reputation. In order to protect its name, the winery has applied for trademark status for its brand names with the U.S. Patent and Trademark Office.

For these reasons, Eola Hills Wine Cellars urged that another name be used for the viticultural area. It proposed the names "Brunk House District," "Eola/Amity Hills District," and "Amity Hills/Eola Hills District" as alternative names. The winery also requested that it be granted an exemption under TTB regulations to continue to use its brand names, "Eola Hills" and "Eola Hills Wine Cellars," on its wines regardless of the origin of the grapes used to produce the wine. The winery ended its comment by requesting that TTB hold a hearing regarding the naming of the viticultural area.

Most of the other comments sympathized with the Eola Hills Wine Cellars position. Forty-one commenters stated that they opposed the new area unless a new name is found or some provision made allowing the winery unrestricted use of its brand names. Thirty other comments expressed support for the proposal as published, but urged that Eola Hills Wine Cellars be permitted to operate as if it were eligible for the grandfather provision of § 4.39(i). These commenters argued that the current grandfather date of July 7, 1986, is arbitrary and penalizes newer wine producing areas that have developed since that date. Several remaining comments expressed complete opposition to the proposal because of this issue, while a few expressed complete support. In an effort to find a solution to the problem, the petitioners submitted comments proposing new names for the area—Amity-Eola District, Aeolus Hills (District), and Aeolian Hills (District). They also requested that TTB create a grandfather clause that would permit Eola Hills Wine Cellars to continue using its brand names. Recently, the petitioners advised TTB by e-mail that they would accept a change in the proposed name to "Eola-Amity Hills."

TTB Finding

After careful consideration of the evidence submitted in support of the petition and the public comments received, TTB finds that there is a substantial basis for the establishment of the viticultural area under the name "Eola-Amity Hills." The petitioners submitted sufficient evidence of the viticultural distinctiveness of the proposed area, and nothing in the comments contradicted that evidence. The petitioners also submitted sufficient evidence (discussed above under "Name Evidence") that a portion of the proposed viticultural area is known as "Amity Hills." As explained earlier, the distinguishing features evidence for Eola Hills applies equally to the Amity Hills portion of the proposed area. Consumers therefore will know that the name "Eola-Amity Hills" refers to the area. Sufficient evidence was not submitted to support any of the other proposed alternative names. In addition, the name "Eola-Amity Hills" will adequately distinguish the viticultural area from the Eola Hills Wine Cellars brand name.

Upon the effective date of this final rule, TTB will recognize only the entire name "Eola-Amity Hills" as having viticultural significance, and therefore Eola Hills Wine Cellars may continue to use its "Eola Hills" and "Eola Hills Wine Cellars" brand names on its wines. With the adoption of "Eola-Amity Hills" as the name of the new viticultural area, it is not necessary to address the issue of a "grandfather" provision for Eola Hills Wine Cellars.

TTB is not granting Eola Hills Wine Cellars' request for a public hearing to discuss the name of the viticultural area. We have determined that a hearing is not necessary because the public record as described above provides a sufficient basis for a decision.

Based on the above, we conclude that it is appropriate to establish the viticultural area under the name "Eola-Amity Hills." Therefore, under the authority of the Federal Alcohol Administration Act and part 4 of our regulations, we establish the Eola-Amity Hills viticultural area in Polk and Yamhill Counties, Oregon, effective 30 days from this document's publication date.

Boundary Description

See the narrative boundary description of the viticultural area in the regulatory text published at the end of this document.

Maps

The maps for determining the boundary of the viticultural area are listed below in the regulatory text.

Impact on Current Wine Labels

Part 4 of the TTB regulations prohibits any label reference on a wine that indicates or implies an origin other than the wine's true place of origin. With the establishment of this viticultural area and its inclusion in part 9 of the TTB regulations, its name, "Eola-Amity Hills" is recognized under 27 CFR 4.39(i)(3) as a name of viticultural significance. The text of the new regulation clarifies this point. Consequently, wine bottlers using "Eola-Amity Hills" in a brand name, including a trademark, or in another label reference as to the origin of the wine, will have to ensure that the product is eligible to use the viticultural area's name as an appellation of origin.

For a wine to be eligible to use as an appellation of origin a viticultural area name or other term specified as being viticulturally significant in part 9 of the TTB regulations, at least 85 percent of the wine must be derived from grapes grown within the area represented by that name or other term, and the wine must meet the other conditions listed in 27 CFR 4.25(e)(3). If the wine is not eligible to use the viticultural area name or other term as an appellation of origin and that name or term appears in the brand name, then the label is not in compliance and the bottler must change the brand name and obtain approval of a new label. Similarly, if the viticultural area name or other term appears in another reference on the label in a misleading manner, the bottler would have to obtain approval of a new label.

Different rules apply if a wine has a brand name containing a viticultural area name that was used as a brand name on a label approved before July 7, 1986. See 27 CFR 4.39(i)(2) for details.

Regulatory Flexibility Act

We certify that this regulation will not have a significant economic impact on a substantial number of small entities. This regulation imposes no new reporting, recordkeeping, or other administrative requirements. Any benefit derived from the use of a viticultural area name is the result of a proprietor's efforts and consumer acceptance of wines from that area. Therefore, no regulatory flexibility analysis is required.

Executive Order 12866

This rule is not a significant regulatory action as defined by Executive Order 12866 (58 FR 51735). Therefore, it requires no regulatory assessment.

Drafting Information

Jennifer Berry of the Regulations and Rulings Division drafted this document.

List of Subjects in 27 CFR Part 9

Wine.

The Regulatory Amendment

■ For the reasons discussed in the preamble, we amend 27 CFR, chapter 1, part 9, as follows:

PART 9—AMERICAN VITICULTURAL AREAS

■ 1. The authority citation for part 9 continues to read as follows:

Authority: 27 U.S.C. 205.

Subpart C—Approved American Viticultural Areas

■ 2. Subpart C is amended by adding § 9.202 to read as follows:

§ 9.202 Eola-Amity Hills.

(a) *Name.* The name of the viticultural area described in this section is "Eola-Amity Hills". For purposes of part 4 of this chapter, "Eola-Amity Hills" is a term of viticultural significance.

(b) *Approved maps.* The appropriate maps for determining the boundary of the Eola-Amity Hills viticultural area are six United States Geological Survey 1:24,000 scale topographic maps. They are titled—

(1) Rickreall, Oregon, 1969, photorevised 1976;

(2) Salem West, Oregon, 1969, photorevised 1986;

(3) Mission Bottom, Oregon, 1957, revised 1993;

(4) Dayton, Oregon, 1957, revised 1992;

(5) McMinnville, Oregon, 1957, revised 1992; and

(6) Amity, Oregon, 1957, revised 1993.

(c) *Boundary.* The Eola-Amity Hills viticultural area is located in the State of Oregon, within Polk and Yamhill Counties, and is entirely within the Willamette Valley viticultural area. The area's boundary is defined as follows—

(1) The beginning point is on the Rickreall, Oregon, map, at the intersection of State Highways 22 and 223;

(2) From the beginning point, proceed east on State Highway 22 to its intersection with Doaks Ferry Road on the Salem West, Oregon, map; then

(3) Proceed northeast on Doaks Ferry Road to its intersection with the 200-foot contour line southeast of Gibson Gulch, in section 65; then

(4) Follow the 200-foot contour line in a westerly loop until it rejoins Doaks Ferry Road; then

(5) Continue north on Doaks Ferry Road to its intersection with State Highway 221; then

(6) Continue north on State Highway 221 to its intersection with the 200-foot contour line at the point where the contour line departs from Highway 221 and runs southwest along the southern edge of Spring Valley (section 53 on the Mission Bottom, Oregon, map); then

(7) Follow the 200-foot contour line first south onto the Salem West, Oregon, map, then northwest around the southern and western edge of Spring Valley and back on to the Mission Bottom, Oregon, map; then

(8) Continue to follow the 200-foot contour line generally north on the Mission Bottom, Oregon, map, crossing onto and back from the Amity, Oregon, map and continue past the Yamhill County line and onto the Dayton, Oregon, map; then

(9) Follow the 200-foot contour line from the Dayton, Oregon, map onto the McMinnville, Oregon, map and back to the Dayton, Oregon, map and continue around the northeast edge of the Amity Hills spur of the Eola Hills; then

(10) Follow the 200-foot contour line onto the McMinnville, Oregon, map as it continues around the northern and western periphery of the Amity Hills spur; then

(11) Follow the 200-foot contour line onto the Amity, Oregon, map as it heads first south, then generally southeast, then generally south, along the western edge of the Eola Hills until it intersects Old Bethel Road at a point just north of the Polk County line; then

(12) Follow Old Bethel Road, which becomes Oak Grove Road, south until it intersects with the 200-foot contour line just northwest of the township of Bethel; then

(13) Follow the 200-foot contour line around in a southeasterly loop until it again intersects Oak Grove Road where Oak Grove and Zena Roads intersect; then

(14) Follow Oak Grove Road south until it intersects with Frizzell Road; then

(15) Follow Frizzell Road west for three-tenths mile until it intersects with the 200-foot contour line; then

(16) Follow the 200-foot contour line generally south until it intersects with the beginning point.

Signed: May 9, 2006.

John J. Manfreda,

Administrator.

Approved: June 15, 2006.

Timothy E. Skud,

Deputy Assistant Secretary (Tax, Trade, and Tariff Policy).

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DEPARTMENT OF THE TREASURY

Alcohol and Tobacco Tax and Trade Bureau

27 CFR Part 9

[T.D. TTB–50; Re: Notice No. 50]

RIN 1513–AA82 thru 1513–AA88

Establishment of the Alta Mesa, Borden Ranch, Clements Hills, Cosumnes River, Jahant, Mokelumne River, and Sloughhouse Viticultural Areas

AGENCY: Alcohol and Tobacco Tax and Trade Bureau, Treasury.

ACTION: Final rule; Treasury decision.

SUMMARY: This Treasury decision establishes seven new viticultural areas within the boundary of the existing Lodi viticultural area, which lies within southern Sacramento and northern San Joaquin Counties in California. The seven new areas are Alta Mesa, Borden Ranch, Clements Hills, Cosumnes River, Jahant, Mokelumne River, and Sloughhouse. We designate viticultural areas to allow vintners to better describe the origin of their wines and to allow consumers to better identify wines they may purchase.

DATES: *Effective Dates:* August 16, 2006.

FOR FURTHER INFORMATION CONTACT: N. A. Sutton, Alcohol and Tobacco Tax and Trade Bureau, Regulations and Rulings Division, 925 Lakeville St., No. 158, Petaluma, CA 94952; telephone 415–271–1254.

SUPPLEMENTARY INFORMATION:

Background on Viticultural Areas

TTB Authority

Section 105(e) of the Federal Alcohol Administration Act (the FAA Act, 27 U.S.C. 201 *et seq.*) requires that alcohol beverage labels provide consumers with adequate information regarding product identity and prohibits the use of misleading information on those labels. The FAA Act also authorizes the Secretary of the Treasury to issue regulations to carry out its provisions. The Alcohol and Tobacco Tax and Trade Bureau (TTB) administers these regulations.

Part 4 of the TTB regulations (27 CFR part 4) allows the establishment of definitive viticultural areas and the use of their names as appellations of origin on wine labels and in wine advertisements. Part 9 of the TTB regulations (27 CFR part 9) contains the list of approved viticultural areas.

Definition

Section 4.25(e)(1)(i) of the TTB regulations (27 CFR 4.25(e)(1)(i)) defines a viticultural area for American wine as a delimited grape-growing region distinguishable by geographical features, the boundaries of which have been recognized and defined in part 9 of the regulations. These designations allow vintners and consumers to attribute a given quality, reputation, or other characteristic of a wine made from grapes grown in an area to its geographical origin. The establishment of viticultural areas allows vintners to describe more accurately the origin of their wines to consumers and helps consumers to identify wines they may purchase. Establishment of a viticultural area is neither an approval nor an endorsement by TTB of the wine produced in that area.

Requirements

Section 4.25(e)(2) of the TTB regulations outlines the procedure for proposing an American viticultural area and provides that any interested party may petition TTB to establish a grape-growing region as a viticultural area. Section 9.3(b) of the TTB regulations requires the petition to include—

- Evidence that the proposed viticultural area is locally and/or nationally known by the name specified in the petition;
- Historical or current evidence that supports setting the boundary of the proposed viticultural area as the petition specifies;
- Evidence relating to the geographical features, such as climate, soils, elevation, and physical features, that distinguish the proposed viticultural area from surrounding areas;
- A description of the specific boundary of the proposed viticultural area, based on features found on United States Geological Survey (USGS) maps; and
- A copy of the appropriate USGS map(s) with the proposed viticultural area's boundary prominently marked.

Alta Mesa, Borden Ranch, Clements Hills, Cosumnes River, Jahant, Mokelumne River, and Sloughhouse Viticultural Area Petitions and Rulemaking

Lodi American Viticultural Areas Steering Committee Petitions

The Lodi American Viticultural Areas (LAVA) Steering Committee petitioned TTB to establish seven new viticultural areas within the boundary of the existing Lodi viticultural area (27 CFR 9.107) in southern Sacramento and northern San Joaquin Counties in California. The seven LAVA Steering Committee petitions proposed the creation of the Alta Mesa, Borden Ranch, Clements Hills, Cosumnes River, Jahant, Mokelumne River, and Sloughhouse viticultural areas. The 16 wine industry members that comprise the committee stated that their proposal subdivides the existing Lodi area into "seven smaller viticultural areas of distinction."

The establishment of the seven proposed viticultural areas would not in any way affect the existing 551,500-acre Lodi viticultural area. The Lodi area will continue as a single American viticultural area within its current boundary. However, TTB notes that the seven proposed areas fall entirely within the 458,000 acres of the original 1986 boundary of the Lodi viticultural area and thus, as proposed, would not include any of the 93,500 acres added to the Lodi area when it was expanded along its western and southern borders in 2002. (*See* T.D. ATF–223, published in the **Federal Register** at 51 FR 5324 on February 13, 1986, for the Lodi viticultural area as originally defined. *See* T.D. ATF–482, published in the **Federal Register** at 67 FR 56481 on September 4, 2002, for the Lodi area expansion in 2002.)

The Seven Proposed Viticultural Areas—Background

Location

The proposed Cosumnes River, Alta Mesa, and Sloughhouse viticultural areas lie, respectively, in the northwestern, north-central, and northeastern portions of the existing Lodi viticultural area and are entirely within Sacramento County. The proposed Clements Hills and Mokelumne River areas cover, respectively, the southeastern and southwestern portions of the existing Lodi viticultural area and are entirely within San Joaquin County. The proposed Borden Ranch and Jahant areas cover, respectively, the east-central and central portions of the existing Lodi viticultural area and lie in portions of both Sacramento and San Joaquin Counties.

The Cosumnes River flows southwest across the Sacramento County portion of the Lodi viticultural area and crosses the proposed Sloughhouse, Alta Mesa and Cosumnes River viticultural areas. The Cosumnes River joins the Mokelumne River, which flows west, then northwest, through the San Joaquin County portion of the Lodi area. The Mokelumne River crosses the proposed Clements Hills and Mokelumne River viticultural areas, and forms a portion of the southwestern boundary of the proposed Jahant area. Neither river touches the proposed Borden Ranch viticultural area.

Summary of Distinguishing Features

According to the LAVA Steering Committee petition, climate data—such as temperature, precipitation, and wind patterns—outline the distinctive microclimates of the seven proposed viticultural areas. To varying degrees, the petition notes, the Lodi viticultural area's climate is affected by its inland San Joaquin valley location between the Sierra Nevada Range to the east and the Sacramento Delta, with its Pacific coast marine influence, to the west.

Differences in topography, elevation, and soils also help to distinguish the seven proposed areas from one another, according to the petition. In addition, the LAVA Committee uses the Storie Index (Huntington, 1992) to rate the agricultural potential of the soils within the seven proposed viticultural areas. This index ranges from 100 points for highly suitable soils to 0 points for unsuitable soils. The petition notes that Storie Index ratings for the seven proposed areas range from 95 to 15 points.

The table below lists the general features of each of the seven proposed viticultural areas as outlined in the LAVA Steering Committee petition:

Name of proposed viticultural area	Total acreage	Relative growing season length*	Storie (soil) index	Location within the Lodi viticultural area
Alta Mesa	55,400	3	25–40	North-central.
Borden Ranch	70,000	2	15–30	East-central.
Clements Hills	85,400	2	15–30	Southeast.

Name of proposed viticultural area	Total acreage	Relative growing season length*	Storie (soil) index	Location within the Lodi viticultural area
Cosumnes River	54,700	2	24–40	Northwest.
Jahant	28,000	1	25–40	Central.
Mokelumne River	85,700	1	80–95	Southwest.
Sloughhouse	78,800	4	15–30	Northeast.

*1 = coolest; 4 = warmest.

In addition, the LAVA Steering Committee petition provided an overview of each proposed viticultural area's grape-growing environment, which we outline in this table:

Proposed viticultural area	Description
Alta Mesa	Intermediate-elevation river terraces and fans; prairie environment; San Joaquin soil series of intermediate age; heavy, red, clay loams; slightly warmer and less windy climate than the lowlands to the west; primarily red grape varietals.
Borden Ranch	High elevations, very old river terraces and hills; oldest valley floor soils; vernal pools and prairie mound environment with high ridges; windy, and warmer, and wetter climate than lowlands to the west; primarily red grape varietals.
Clements Hills	High-elevation river terraces and hills with older soils and volcanic sediments; woodland environment; warmer and wetter climate than lowlands to the west; primarily red grape varietals.
Cosumnes River	Low-elevation meadows and riverbank woodland environment; diversity of young soils along floodplain and sloughs with patches of intermediate-age soils on river terraces and fans; cool and windy climate; primarily white grape varietals.
Jahant	Intermediate elevations with erosion, dissected river terraces and old floodplain deposits; soils are sandy at surface and older and cemented at sub-surface depths; cool and breezy climate; both red and white grape varietals.
Mokelumne River	Intermediate-to-low-elevation alluvial fan; prairie environment; distinctive soils; cool and windy climate; both red and white grape varietals.
Sloughhouse	High-elevation river terraces and low bedrock hills of the Sierra Range; older soils; woodland environment; warmer and wetter climate than the lowlands to the west; both red and white grape varietals.

Below, we discuss the evidence presented in the seven petitions.

Alta Mesa

The proposed Alta Mesa viticultural area is located in Sacramento County in the north-central portion of the established Lodi viticultural area, approximately 21 miles south of the city of Sacramento and 13 miles north of the city of Lodi. The proposed area covers 55,400 acres, of which approximately 5,000 acres are planted to grapes, according to the LAVA Steering Committee petition. This irregularly shaped, five-sided area is 13.3 miles long north to south, and 8.3 miles wide at its widest point east to west. The Alta Mesa region's "tabletop" landform and the Joaquin soil series are the proposed area's distinctive and unifying features, the petition states.

Below, we summarize the evidence presented in the Alta Mesa petition.

Name Evidence

The petition explains that the name "Alta Mesa," which means "high table" in Spanish, reflects California's history under Spanish-controlled Mexico. The petition states that local ranchers, farmers, and winemakers refer to this region within the existing Lodi viticultural area as "Alta Mesa," and notes that the name is also used for places within the proposed viticultural area. The Alta Mesa Farm Bureau Hall, which is listed on the National Register of Historic Places, is on Alta Mesa Road, while the Alta Mesa Fair is held in Elk Grove and the Alta Mesa Dairy is in Wilton, both of which are within the proposed area's boundary.

The name "Alta Mesa" also appears four times on the USGS Sloughhouse map within the proposed viticultural area's boundaries. The map shows the 138-foot high Alta Mesa benchmark and the Alta Mesa Community Hall in section 9, and the Alta Mesa Gun Club in section 8, T6N, R7E. Alta Mesa Road runs along the northern and eastern boundaries of section 5, T6N, R7E, and continues onto the USGS Clay, California map. The road serves as part of the Alta Mesa viticultural area's proposed eastern boundary.

Boundary Evidence

The Alta Mesa tabletop landform and the extent of the Joaquin soil series generally outline the boundary of the proposed Alta Mesa viticultural area, according to the petition. The petition explains that the American and Cosumnes Rivers have built up intermediate elevation river terraces and alluvial fans, which form the proposed area's tabletop or "mesa," the elevation of which gently rises from approximately 35 feet in the west to 138 feet in the east at the Alta Mesa benchmark.

The proposed Alta Mesa area's northern boundary coincides with the established Lodi viticultural area's boundary at Sheldon Road in Sacramento County. According to the petition, eroded terrain and a change in soil types mark the proposed area's southern boundary at the Dry Creek estuary. Changes in elevation from Alta Mesa's tabletop landform, the petition explains, mark the proposed area's eastern and western boundary lines. Also, the petition notes, the proposed area's western boundary marks a transition to the warmer climate of the proposed Cosumnes River viticultural area. In addition, the proposed Alta Mesa area is bordered on the east by the proposed Sloughhouse and Borden Ranch viticultural areas, and, to the south, by the proposed Jahant area.

Distinguishing Features

Topography

The proposed Alta Mesa viticultural area's tabletop or mesa-like landform is one of the area's most distinctive and unifying features, the petition states. The proposed Alta Mesa area sits on intermediate elevation river terraces and alluvial fans, and, despite some depressions and mounds, the area has a generally flat surface. This tabletop landform peaks at 138 feet in its northeast corner and gradually declines to 35 feet along its western side. To the east of the proposed Alta Mesa area, the Sierra Range foothills begin to rise within the proposed Sloughhouse viticultural area. To the proposed Alta Mesa area's immediate west, the proposed Cosumnes River viticultural area has lower elevations that almost dip to mean sea level. Deer Creek and the lower course of the Cosumnes River run parallel and southwest through the proposed area.

Soils

The San Joaquin soil series, which covers about 90 percent of the Alta Mesa region, is also a distinctive feature of the proposed viticultural area, the petition states. The petition explains that this soil series consists of dense, heavy clay that limits rooting depth and the need for irrigation. Classified as Abruptic Durixeralfs, the San Joaquin soils have high percentages of clay and gravel, and intensive reddening and cementation caused by silica, clay, and iron. This soil series has intermediate-age parent materials, 12,000 to 45,000 years old, from stage 2 of the late Pleistocene glacial age, making these some of the oldest soils within the established Lodi viticultural area, according to the petition. The Storie Index places the Alta Mesa soils between 25 and 40 points of suitability. The San Joaquin soil series, the petition emphasizes, creates a distinctive and beneficial viticultural environment in the proposed Alta Mesa viticultural area.

Climate

The petition uses data from the Lodi, Sacramento, Folsom, and Camp Pardee weather stations, which are located close to the proposed Alta Mesa viticultural area. With a mean annual temperature of 60.5 degrees Fahrenheit, the petition states that the proposed Alta Mesa area is a transitional region that is warmer than most of the other proposed viticultural areas within the existing Lodi viticultural area. Only the Clements Hills area, which has the same annual mean temperature as the Alta Mesa area, and the more inland Sloughhouse area, are warmer.

The warm climate of the proposed Alta Mesa viticultural area is seen in the area's heat accumulation as measured in degree days.[1] The degree day total for the Alta Mesa area is more than 200 degree days higher than the totals of the proposed Jahant and Mokelumne River viticultural areas to the south, which are closer to the cooling breezes of the Sacramento Delta. The degree day total for the proposed Alta Mesa area is also more than 100 degree days higher than the totals of the proposed Cosumnes River area to its west and the proposed Borden Ranch and Clements Hills viticultural areas to its east and southeast.

The sea breeze from the Pacific Ocean that funnels through the Carquinez Straits and the Sacramento Delta, the petition explains, cools the overall Lodi area. However, this natural air conditioning gradually decreases in intensity and disperses as it flows inland from west to east. As measured across the northern portion of the existing Lodi viticultural area from west to east, these marine winds are strongest in the proposed Cosumnes River viticultural area, less intense in the proposed Alta Mesa area, and weakest in the proposed Sloughhouse area.

Winter fog is also common in the proposed Alta Mesa viticultural area, the petition explains, due to seasonal standing water and cold-air drainage from the foothills to the east. This fog slightly decreases the Alta Mesa area's degree-day total, according to the petition, by limiting the springtime heating of the soil and vines. In addition, the petition notes, the proposed Alta Mesa viticultural area's elevation provides a buffer between this fog from the west and the proposed Sloughhouse viticultural area to the east.

The average annual rain total in the proposed Alta Mesa viticultural area, according to petition evidence, is 18.5 inches. This amount, the petition notes, is less than the 23-inch annual average in Sloughhouse to the east and more than the rainfall averages found in the regions to Alta Mesa's immediate south.

Borden Ranch

The proposed Borden Ranch viticultural area is located in southern Sacramento and northern San Joaquin Counties in the east-central portion of the established Lodi viticultural area, approximately 27 miles southeast of the city of Sacramento and 13 miles north of the city of Lodi. Covering 70,000 acres, the petition notes that approximately 11,000 acres within the proposed Borden Ranch area are planted to grapes. Located between the Sierra Foothills to the east and the San Joaquin Valley to the west, the proposed area has a distinctive terrain of old alluvial fans, river terraces and plains, and high elevations, according to the petition.

Below, we summarize the evidence presented in the Borden Ranch petition.

Name Evidence

In 1864, Ivey Lewis Borden established the Borden Ranch in this area, and local residents have used the name ever since, according to the petition. For example, the petition notes an August 16, 1929, Stockton Daily Evening Record article reporting on a barn fire on the Borden Ranch that killed a famous horse. More recently, the Borden Ranch name appeared in a court case and related news media stories involving a developer who sued the U.S. Army Corps of Engineers over wetlands issues, and the petition included a January 6, 2003, Sacramento Business Journal article on the case.

The petition states that since the 1970s, when the Burton and Dedomenico families began the first major grape plantings within the proposed area, local residents have also come to know Borden Ranch for its grape growing. Since that time, the petition continues, Sutter Home, Mondavi, and Delicato have also planted vineyards in the proposed area. The petition also claims that between 1995 and 1996, the single largest vineyard expansion in California history occurred in this area.

In addition, the petition includes articles from the April 8, 2003, Stockton Record and the April 18, 2003, Modesto Bee that discuss recent vineyard development around Clay Station. Named for a popular stagecoach stop from the California Gold Rush days and located on the historic Borden Ranch, Clay Station is noted for its rich reddish clay soils and large stones, which provide for well-drained soil for grape growing, according to Stockton Record article.

The petition also included statements from local residents regarding the use of the Borden Ranch name. For example, Jeff Sparrowk, a longtime Clements-area rancher, notes that the Borden Ranch is well known for its quality grazing land and vineyards. Robert Disch, a Borden Ranch-area farmer, states that Borden Ranch has become well known since

[1] Each degree that a day's mean temperature is above 50 degrees Fahrenheit, which is the minimum temperature required for grapevine growth, is counted as one degree day; see "General Viticulture," Albert J. Winkler, University of California Press, 1975.

vineyard development began there in the 1970s. He adds, "We are happy to see the notoriety of this region increasing and can declare that the Borden Ranch has a well-known history in our community."

Wine industry publications have also taken notice of the Borden Ranch area, according to several articles supplied with the petition. An article titled "Lodi & the Sacramento Valley Vintage 2000" from the Wine Institute's "Harvest 2000" publication comments on the "enormous quality potential" of newer grape growing areas "such as Borden Ranch." The Spring, 2002 edition of the "V&E Trellis Wire," a publication of the Department of Viticultural and Enology at the University of California-Davis, includes an article about a student field trip to the Lodi-Woodbridge wine region. The article describes the students' visit to the Borden Ranch, which it characterized as a 4,000-acre vineyard region.

Boundary Evidence

The proposed Borden Ranch viticultural area lies between the Sierra Range foothills to the east and the San Joaquin Valley to the west. The proposed area's northern and southern boundaries are based on two generally parallel streams-the Laguna, a tributary of the Cosumnes River, in the north, and Dry Creek, a tributary of the Mokelumne River, in the south. Both flow northeast to southwest from the Sierra Foothills to the San Joaquin Valley.

The stream deposits from the Laguna and Dry Creek are the distinguishing and unifying feature of the proposed Borden Ranch viticultural area, according to the petition. The proposed area's predominant geographical features are the high elevation, older river terraces and hills located within the watersheds of the Laguna and Dry Creek. These deposits and river terraces, the petition explains, extend from the Laguna in the north to near Liberty Road at the area's proposed southern boundary near Dry Creek. As a result, the proposed Borden Ranch area's northern boundary follows the path of the Laguna, while Dry Creek runs slightly north of the proposed area's southern boundary. The petition uses roads to mark the proposed area's eastern and western boundaries.

Distinguishing Features

Topography

As explained in the petition, the proposed Borden Ranch viticultural area has distinctive terrain due to its location between the Laguna and Dry Creek streams and its location at the base of the Sierra Foothills. The river terraces and stream deposits left by the Laguna and Dry Creek throughout the proposed Borden Ranch area are its distinguishing and unifying feature, according to the petition. The petition notes that the proposed area's lower, western elevations also have prairie mounds and vernal pools along these river terraces. Hills and ridges, which are the eroded remnants of very old river deposits, are found near the Sierra Foothills in the proposed area's higher eastern elevations. In addition, the petition states, the oldest alluvial fans in Sacramento and San Joaquin Counties are found in the eastern portion of the proposed area close to the Sierras.

The proposed Borden Ranch viticultural area inclines upward toward the Sierra Range, from 73 feet in elevation along its western boundary to 520 feet along its eastern border, a rise of 447 feet. While these elevations and rise are similar to the proposed Sloughhouse viticultural area to the north of the Borden Ranch area, the proposed Alta Mesa and Jahant areas to the west of Borden Ranch have peak elevations of only 138 feet and 105 feet, respectively. The existing Lodi viticultural area's eastern boundary also marks the eastern limit of the proposed Borden Ranch area—beyond which lies the higher elevations and more mountainous terrain of the Sierra Foothills.

Soils

The terrain within the proposed Borden Ranch viticultural area exceeds 700,000 years in age, and is distinctively older than the terrain found in the other six proposed Lodi viticultural areas, according to the petition. In addition, the petition notes, the oldest valley soils in the Lodi region are found on the tops of the terraces above the streams in the proposed Borden Ranch area. These old Durixeralfs soils, the petition states, include the Redding, Hicksville, Corning, and Yellowlark soil series.

In contrast, the petition states that the surface terrain in the proposed Sloughhouse viticultural area to the north of the Borden Ranch area and in the proposed Clements Hills viticultural area to its south is from 125,000 and 250,000 years old, respectively, to 700,000 years old. Additionally, the proposed Borden Ranch viticultural area's soils contain a large percentage of surface and below ground rock cobble, or stones, a feature unique to this area, according to the petition.

Climate

The petition incorporates data from the Lodi, Sacramento, Folsom, Camp Pardee, and Stockton weather stations, which are located near the proposed Borden Ranch viticultural area. The proposed Borden Ranch area, the petition notes, has a greater diversity of topographic-climatic vineyard sites than any of the other six areas proposed for establishment within the existing Lodi viticultural area. As the petition explains, vineyards within the proposed Borden Ranch area are found on hilltops or slopes, and in flat valley floors, facing different compass directions. These topographic variables, the petition states, are responsible for differences of sun, temperature, soil, water, and windiness in the vineyards.

The proposed Borden Ranch area, according to the petition, is windier, warmer, and wetter, than the lowland regions to its west. The combination of cooling Sacramento Delta breezes from the west and cold air drainage from the Sierra Foothills to the east, the petition explains, generates high wind intensity and duration in the proposed Borden Ranch area. The petition notes that this windswept environment, in conjunction with the area's hills and stony soils, creates high water evaporation conditions in the vineyards that lessen the vigor of the grapevine growth.

While the Borden Ranch area's degree day total is similar to that of the other six proposed viticultural areas discussed in this document, its annual mean temperature of 60.4 degrees Fahrenheit is slightly warmer than the proposed Cosumnes River, Jahant, and Mokelumne River areas to its west. The proposed Borden Ranch area is cooler than the Sloughhouse area to its north. Annual rainfall in the Borden Ranch area is 20 inches, which is less than the 23 inches of the Sloughhouse area to the north, the petition states, but higher than that of the proposed areas to its west.

Clements Hills

Located in northern San Joaquin County, the proposed Clements Hills viticultural area occupies much of the southeastern portion of the established Lodi viticultural area, approximately 41 miles southeast of Sacramento and 13 miles east of the city of Lodi. Covering 85,400 acres, of which approximately 16,000 acres are planted to grapes, the petition states that the proposed Clements Hills viticultural area is a hilly transitional region between the low, flat San Joaquin Valley floor to the west and the progressively higher Sierra Foothills to the east. The petition adds that the proposed area's high elevation river terraces and rounded hilltops distinguish it from surrounding grape-growing regions.

Below, we summarize the evidence presented in the Clements Hills petition.

Name Evidence

The small town of Clements is located in the northern portion of the proposed Clements Hills viticultural area and is shown on the USGS Clements map and on California highway maps. According to the petition, Thomas Clements, who had settled in the region in 1857, donated 25 acres of land in 1882 to develop the town as a stop on the San Joaquin and Sierra Nevada Railroad. Named for its benefactor, the town served as a shipping point for the region's grain, wool, hops, fruit, and other agricultural commodities.

The proposed "Clements Hills" viticultural area name combines the town's name with a reference to the proposed area's hilly terrain. Local residents, realtors, and members of the wine industry, the petition states, commonly use the Clements Hills name to refer to the land within the proposed area's boundaries. For example, realtor Tad Platt states that while marketing materials formerly referred to the "rolling hills of Clement," the area has become better known simply as "Clements Hills" in recent years. Farmer Wesley Breitchenbucher and businessman Jeff Myers, whose families have lived in the Clements area for generations, also indicate that the proposed area is known as Clements Hills, according to the petition. The petition quotes Mr. Myers as stating that "the red, shallow soils of the Clements Hills" has attracted many vineyards and ranchette developments in the past decade. In addition, the petition notes the use of the Clements Hills name on the label of Vino Con Brio's 2001 Sangiovese wine.

Boundary Evidence

The high elevation river terraces and hills formed by the Mokelumne River, along with the region's older soils, distinguish the proposed Clements Hills area from surrounding areas, according to the petition. The Clements Hills area's proposed northern boundary, along Liberty Road, approximates the northern edge of the higher and older Mokelumne River terraces, the petition explains. The petition adds that, north of the proposed boundary, elevations decrease in the proposed Borden Ranch viticultural area due to the more eroded land found in the vicinity of Dry Creek.

The Clements Hills proposed eastern boundary follows the San Joaquin County line, separating the proposed area from the more mountainous Amador, Calaveras, and Stanislaus Counties. These county lines, according to the petition, mark the transition from the rolling hills of the Clements Hills region to the Sierra Foothills more mountainous environment.

The Clements Hills proposed southern boundary line follows the Calaveras River as it meanders west from the Sierra Foothills to the San Joaquin Valley. To the north of the Calaveras River, within the proposed area's boundaries, the terrain is made up primarily of hills from older Mokelumne River deposits, the petition explains. Also, the petition states, the Calaveras River's alluvial terrace and fan deposits become progressively younger as one moves south from the proposed area's southern boundary.

The Clements Hills proposed western boundary is along Jack Tone and Elliott roads. To the east of these roads within the proposed area, the petition explains, the terrain consists primarily of hilly deposits from the older alluvial terraces and fans. The petition adds that to the west of Jack Tone and Elliott roads beyond the Clements Hills area, the hilly terrain gives way to younger, sandier, and lower alluvial fan formations and eventually the flat San Joaquin valley floor.

Distinguishing Features

Topography

The proposed Clements Hills viticultural area is located between the flat, low elevations of the San Joaquin Valley floor to its west and the higher Sierra Foothills elevations to its east, according to the petition. Elevations within the proposed boundary area increase from a low of 90 feet on its western, San Joaquin Valley side to greater than 400 feet high at its eastern boundary line, according to the provided USGS maps. The petition also notes that the hilltops within the Clements Hills proposed viticultural area are distinctively convex and rounded. The Clements Hills, the petition states, contrast with the flat valley terrain to the west, the flat hilltops of the proposed Borden Ranch viticultural area to the north, and the more mountainous environment of the Sierras. Through time and weather, the petition adds, the bluffs and terraces of the Mokelumne River have become smooth topped, rolling hills that extend toward the proposed Clements Hills area's southern boundary at the Calaveras River.

Soils

The petition explains that the soils found within the proposed Clements Hills proposed viticultural area are old and primarily classified as Haploxerailfs, Durixeralfs, and Palexeralfs. These brown, red and yellow loams, clay loams, and clays, the petition states, principally belong to the Redding, Cometa, Yellowlark, and Montpellier soil series. Also, the petition notes, these low vigor soils have higher water holding capacities than the stony soils to the north in the proposed Borden Ranch viticultural area, but less than the loamy soils to the west in the proposed Mokelumne River area. The Storie Index rates the soils in the proposed Clements Hills viticultural area at between 15 and 30, according to the petition.

Climate

Using data from the Lodi, Sacramento, Folsom, Stockton, and Camp Pardee weather stations, which are located close to the proposed Clements Hills viticultural area, the petition states that the proposed Clements Hills viticultural area is warmer and wetter than the regions to its west. As documented in the petition, the mean annual temperature of the proposed Clements Hills viticultural area is 60.5 degrees Fahrenheit, which is the same as the Alta Mesa area's mean annual temperature. Also, only the proposed Sloughhouse viticultural area, north of the Clements Hills region, experiences a warmer annual mean temperature in the Lodi area. The Clements Hills area annual degree day total is approximately 100 degrees higher than those of the proposed Mokelumne River and Jahant viticultural areas to the west, according to the petition.

The petition notes that fog is less frequent in the proposed Clements Hills viticultural area than in the lower elevation San Joaquin valley floor areas to its west and, therefore, the proposed area receives more hours of warming sunshine. Reduced winds also help warm the proposed Clements Hills area, according the petition. Although the proposed area receives consistent Sacramento Delta breezes, the hilly terrain of the proposed Clements Hills area, the petition notes, reduces the marine wind speed and movement across the proposed area. Air drainage from the higher slopes to the east, the petition adds, reduces frost occurrences in the proposed viticultural area as well.

Rainfall in the proposed Clements Hills viticultural area averages 21 to 22 inches annually, according to the petition, which is more than what the lower elevation proposed Jahant and Mokelumne River areas to its west and the proposed Borden Ranch area to its north receive. The petition explains that the proposed Clements Hills area's hilly topography and its location just west of

the Sierra Mountains bring more rain to the area since these higher elevations cause moisture-laden Pacific air to rise, forcing the air's moisture to condense and fall to the ground.

Cosumnes River

The proposed Cosumnes River viticultural area is in the northwestern portion of the existing Lodi viticultural area, approximately 20 miles south of the city of Sacramento and 14 miles north of the city of Lodi. Approximately 3,000 acres of the 54,700 acres within the proposed Cosumnes River viticultural area are currently planted to grapes, according to the petition. The climate of the proposed viticultural area, providing most notably a relatively cool and windy growing season, as well as its young, alluvial soils and low-elevation terrain distinguish the proposed area from surrounding areas, according to the petition.

Below, we summarize the evidence presented in the Cosumnes River petition.

Name Evidence

The May 2001 California State Automobile Association "Central California" map shows the Cosumnes River from its headwaters in the Sierra Range to its confluence with the Mokelumne River between Walnut Grove and Thornton, California. The lower portion of the river flows through the proposed Cosumnes River viticultural area. The USGS quadrangle maps for Bruceville, Elk Grove, and Galt, California, which are used to define portions of the proposed Cosumnes River viticultural area boundary, identify the Cosumnes River and show its northeast-to-southwest path through the proposed area. The LAVA Committee considered using the "Upper Cosumnes" and "Lower Cosumnes" names for the proposed "Sloughhouse" and "Cosumnes River" viticultural areas, respectively, but believes the proposed name choices are more appropriate.

As noted in the petition, the Cosumnes River name is associated with other places within the proposed viticultural area. For example, the Cosumnes River Preserve, located between Interstate Highways 5 and State Route 99 in southern Sacramento County, is also prominently shown on the California State Automobile Association's Central California map. The petition explains that this Nature Conservancy preserve, a 1,450-acre protected natural area and wildlife habitat, is in the heart of the proposed Cosumnes River viticultural area. Also, Cosumnes River College is located in the suburbs of Sacramento, just north of the proposed area's northern boundary.

Historically, the petition explains, the name "Cosumnes" comes from the Native American Miwok people's term for "salmon people." The petition adds that an alternative Miwok translation is "the place of the koso berry." John Sutter, an early settler, provides an 1841 written reference to the term "Cosumnes River," the petition states, and 1845 and 1848 maps by John Fremont label this waterway as the "Cosumnes River." The March 1, 1851, edition of the Stockton Times, in describing the region, states: "Some of the earlier settlements made in this country were along the Cosumnes".

Boundary Evidence

The existing Lodi viticultural area boundary marks the limits of the proposed Cosumnes River viticultural area to the north and west. To the east, the proposed Cosumnes River viticultural area shares a boundary with the proposed Alta Mesa viticultural area, and, to the south, with the proposed Jahant and Mokelumne River viticultural areas. A portion of the Mokelumne River marks the proposed area's southern boundary line.

The proposed Cosumnes River viticultural area lies south of the city of Sacramento and borders the west side of the town of Galt. The proposed area primarily produces white wine grape varietals, as compared to red grape varietals in areas to the east and a mixture of red and white grape varietals in areas to the south.

Distinguishing Features

The relatively cool and windy growing season of the proposed Cosumnes River viticultural area, its young, alluvial soils, and its low-elevation terrain distinguish the proposed area from surrounding areas, according to the petition.

Topography

The petition explains that the proposed Cosumnes River viticultural area topography includes wetlands, natural and artificial levees, sloughs, streams, and the Cosumnes River. In addition, the Mokelumne River marks a portion of the area's southern boundary. A large alluvial fan crosses the proposed Cosumnes River viticultural area and slopes towards its southwest corner.

The low elevations found in the proposed Cosumnes River viticultural area distinguish it from the surrounding, higher-elevation areas, the petition states. At its southwestern corner, where the Cosumnes River joins the Mokelumne River, the elevation of the proposed Cosumnes River viticultural area dips to almost sea level. Elevations within the proposed area gradually rise to a high point of 48 feet at its southeast corner, according to the provided USGS maps. In contrast, the petition notes, the proposed Alta Mesa viticultural area, to the east of the proposed Cosumnes River viticultural area, has elevations to 138 feet. To the south, the proposed Jahant viticultural area rises to 80 feet in elevation, and the proposed Mokelumne River viticultural area rises to 85 feet, according to the petition.

Soils

The proposed Cosumnes River viticultural area, the petition explains, is dominated by young, alluvial soils that distinguish it from the surrounding areas. The petition notes that 60 percent of the agricultural land within the proposed area is covered by a series of younger alluvial and organic soils, Xerothents and Histosols. These younger soils, the petition continues, predominate in the lower areas, including the floodplains, sloughs, and wetlands, and around the Cosumnes River and its tributaries along the western side of the proposed viticultural area. The intermediate-age, deep reddish, gravelly clay loam soils of the San Joaquin series cover the remaining 40 percent of the agricultural land within the proposed Cosumnes River viticultural area, according to the petition. These soils, classified as Abruptic Durixeralfs, have good water-holding capacity and moderate fertility.

To the east of the proposed Cosumnes River viticultural area, the proposed Alta Mesa viticultural area soils are of intermediate age, and about 90 percent of its soils are from the San Joaquin series, according to the petition. To the south, the proposed Jahant and Mokelumne River viticultural areas have a combination of young and intermediate in age soils. According to the petition, the Storie Index places the Cosumnes River soils at between 24 and 40 points for suitability.

Climate

The petition provides statistics and data from the Lodi, Sacramento, and Folsom weather stations, which are close to the proposed Cosumnes River viticultural area. Overall, according to the petition, the proposed Cosumnes River viticultural area has a cool and breezy climate.

With mean annual temperatures of 60 degrees Fahrenheit, the proposed Cosumnes River and Mokelumne River viticultural areas are the coolest of the proposed viticultural areas discussed in this document, according to the

petition. The petition adds that the proposed Cosumnes River viticultural area sustains intermediate level winds. The surrounding areas to the north and east are warmer and have less wind than the proposed Cosumnes River area, according to the petition. Also, to the south, the proposed Jahant and Mokelumne River viticultural areas have similar cool and strong marine winds.

The petition notes that the Pacific Ocean's cooling breezes funnel eastward through San Francisco's Golden Gate, the Carquinez Strait, and the Sacramento Delta to reach the Lodi area. These marine breezes cool the Lodi area's lower elevations, including the Cosumnes River floodplain and the areas to the river's south. The intensity and effect of these cooling winds, according to the petition, dissipate as they continue eastward over the proposed Cosumnes River viticultural area to the proposed Alta Mesa and Sloughhouse viticultural areas.

The petition states that maritime and inland fog is persistent in the low elevations of the proposed Cosumnes River viticultural area. This fog cools the proposed viticultural area more than the surrounding areas, which are less influenced by the maritime winds. The annual precipitation within the proposed Cosumnes area is 17.4 inches, according to the petition, which is more than the low elevation areas to its immediate south, but less than the high elevation regions to the north and east of the proposed viticultural area's boundaries.

Jahant

The proposed Jahant viticultural area is located in the center of the existing Lodi viticultural area, about 29 miles south of the city of Sacramento and 7 miles north of the city of Lodi. Currently, approximately 8,000 acres of the 28,000 acres within the proposed Jahant viticultural area are planted to grapes, according to the petition. The pink Jahant loam soil found in the proposed viticultural area is its most distinguishing characteristic, according to the petition, giving the Jahant area a unique grape-growing environment. Also, the petition notes that the proposed Jahant viticultural area's climate is cooler, dryer, and windier than most of the other proposed viticultural areas discussed in this document. The petition adds that the terrain within the proposed Jahant viticultural area is noted for its river terraces and old floodplain deposits.

Below, we summarize the evidence presented in the Jahant petition.

Name Evidence

The "Jahant" name is associated with the central portion of the established Lodi viticultural area in southern Sacramento and northern San Joaquin Counties, according to the petition. The name comes from Peter Jahant and several of his brothers, all 1850s settlers to the area, the petition states. The Jahant family settled and successfully farmed in the Acampo area of the Lodi region, and, in 1912, Peter Jahant's son Charles planted 130 acres to grapes on the original family farm and on additional purchased land.

Jahant Slough and Jahant Road, a light-duty, east-west road, are shown on the Lodi North and Lockeford USGS maps, in the approximate center of the proposed Jahant viticultural area. Also, Jahant Road is shown in sections B–4, B–5, C–5, and C–6 of the Gold Country map, published in April 2002 by the California State Automobile Association. The Jahant Equestrian Center is on Jahant Road, and some area vineyards use Jahant in their names, according to the petition.

Boundary Evidence

The petition states that the unique pink Rocklin-Jahant loam soils found within the proposed Jahant viticultural area and the deep dissections through river deposits left by flooding within the past 20,000 years distinguish the proposed Jahant area from the surrounding proposed viticultural areas. To the south, the proposed Mokelumne River viticultural area has predominantly young, light-colored sandy soils, the petition notes, while to the north the proposed Alta Mesa viticultural area has predominantly intermediate-age red soils. The petition states that the boundaries of the proposed Jahant viticultural area encompass the extent of the Jahant soils within the existing Lodi viticultural area.

The petition also explains that dissected river terraces and old floodplain deposits, located between Dry Creek and the Mokelumne River, distinguish the proposed Jahant area from the surrounding areas. Dry Creek is part of the northern boundary of the proposed Jahant viticultural area, and the creek flows through its northwest section. The Mokelumne River forms the western boundary of the proposed Jahant area, close to where it joins with the Cosumnes River, according to the provided USGS maps.

Distinguishing Features

Topography

Elevations in the proposed Jahant viticultural area vary from about 10 feet to 100 feet, according to USGS maps of the area. Also, these elevations rise from the west to the east, increasing toward the Sierra Range. The proposed viticultural area, the petition explains, is bounded by rivers on its north and west and is dotted with small lakes and sloughs. The larger Tracy Lake lies in the area's southwest, while a gas field lies in the area's southeast corner. The contours of the area, predominantly river terraces and old, eroded floodplain deposits, the petition continues, have developed from the actions of Dry Creek and the Mokelumne River.

Soils

The proposed Jahant viticultural area, located primarily between Dry Creek and the Mokelumne River, has distinctive pink Rocklin-Jahant soils that are principally sandy loams and sandy clay loams with massive structure, thickness, and hardened depth, the petition explains. The soils are classified as Mollic Pelexeralfs. These old soils, the petition continues, have younger sandy surfaces and are generally different in structure, thickness, and depth from the San Joaquin deep reddish, gravelly clay loam soils found north of the proposed Jahant viticultural area. To the south, the petition states, the light sandy loam Tokay and Acampo soils are young, deep and well drained, tend to be granular and crumbly, and of a fine texture without gravel, in contrast to the Jahant soils.

Climate

The petition provides statistics and data from the Lodi, Sacramento, Folsom, Camp Pardee, and Stockton weather stations, which are close to the proposed Cosumnes River viticultural area. The proposed Jahant viticultural area, the petition comments, has cool climatic characteristics similar to those of the proposed Mokelumne River viticultural area to the south. Both regions, according to the petition, receive the Pacific marine breezes that funnel east from the San Francisco Golden Gate, through the Carquinez Strait, the Sacramento Delta, and into the Lodi area. The petition also notes the cooling effect of persistent valley and coastal fog within the proposed boundaries.

The winds in the proposed Jahant viticultural area are of high intensity and prolonged duration, similar to those of the proposed Mokelumne River

viticultural area to the south, the petition states. In contrast, to the north and northeast of the proposed Jahant area, the proposed Alta Mesa and Sloughhouse viticultural areas have less wind intensity and warmer temperatures, according to the petition.

The mean annual temperature of the proposed Jahant viticultural area is 60.1 degrees Fahrenheit, which is lower than that of the other proposed viticultural areas discussed in this document except for the Cosumnes River and Mokelumne River areas, each of which has a slightly lower mean annual temperature of 60.0 degrees, according to the petition. Also, the degree day totals for the Jahant area are between 100 and 400 degree days lower than those of the other parts of the Lodi region, except for the proposed Mokelumne River viticultural area to the immediate south. Finally, the Jahant area's annual rainfall is 18.0 inches, which is less than rainfall totals in the other areas of the Lodi region with the exception of proposed Cosumnes River and Mokelumne River viticultural areas.

Mokelumne River

The proposed Mokelumne River viticultural area is in northern San Joaquin County in the southwestern portion of the existing Lodi viticultural area. According to the petition, the proposed Mokelumne River viticultural area covers 85,700 acres, of which approximately 42,000 acres are vineyards. The young alluvial fan created by the Mokelumne River distinguishes the proposed Mokelumne River viticultural area from the surrounding areas, the petition states. In addition, the distinctively breezy climate of this proposed viticultural area is the coolest within the original Lodi viticultural area, according to the petition.

Below, we summarize the evidence presented in the Mokelumne River petition.

Name Evidence

Historically, the "Mokelumne" name is derived from the Miwok Indians and has been translated as "the place of the fish net," according to the petition. Known earlier as the Rio Mokellemos, the present spelling of Mokelumne was set in 1848 by John C. Fremont, as documented in the "California Place Names," by Erwin Gudde, published in 1960 by the University of California Press.

The Mokelumne River, which flows west from the Sierras into the San Joaquin Valley, is shown on a number of USGS maps, including the Lockeford, Lodi North, Bruceville, Thornton, Clements, and Wallace maps. Other maps also show the river, including the Gold Country map published by the California State Automobile Association in April 2002.

Boundary Evidence

The petition explains that the "classic, young" alluvial fan of the Mokelumne River extends east-to-west through the proposed Mokelumne River viticultural area. Given its distinctive geology and topography, the river's alluvial fan contrasts with the geology and topography of the other proposed viticultural areas discussed in this document and the areas beyond. According to the petition, east of Jack Tone Road, beyond the proposed Mokelumne River viticultural area boundary line, are the older terrace deposits of the proposed Clements Hills viticultural area, while south of the proposed boundary, toward Linden and Farmington, the coarse deposits of the Calaveras River alluvial fan contrast with the sandy loam of the proposed Mokelumne River viticultural area. To the west of Interstate 5, and beyond the original Lodi viticultural area western boundary line, very young organic and inorganic soils dominate the Sacramento Delta region, according to the petition. To the north of the proposed Mokelumne River area boundary line are the older river deposits that distinguish the Jahant region.

Distinguishing Features

Topography

The Mokelumne River meanders through the northern portion of the proposed Mokelumne River viticultural area, while creeks, sloughs, a canal, and an aqueduct run through its interior. Also, the city of Lodi is located on the south bank of the Mokelumne River in the approximate center of the proposed viticultural area.

The topography of the proposed Mokelumne River viticultural area is dominated by a relatively young alluvial fan over an intermediate age fan, according to the petition. To the east, the fan joins with the older Mokelumne River terrace deposits along Jack Tone Road, which serves as part of the boundary line for the proposed viticultural area, the petition notes. The Mokelumne River alluvial fan extends from the higher eastern elevations of the Clements region to the lower elevations along Interstate 5 and Eight Mile Road to the southwest, according to the provided USGS maps and the petition. The USGS maps of the proposed Mokelumne River viticultural area show elevations sloping downward to the west from a high of 100 feet at the northeast corner of the proposed area to a low of 5 feet at its southwest corner.

Soils

The petition explains that sandy loam Tokay and Acampo soils dominate the proposed Mokelumne River viticultural area. These soils are young, deep and drain well, according to the petition. Also, the soils tend to be granular and crumbly, of a fine texture and without gravel. The sandy loams in the region, the petition describes, are generally between 6 and 12 feet in depth with low moisture holding capacity, especially in the western portion of the proposed area.

Climate

The petition uses climate statistics and data from the Lodi weather station, which is located near the proposed Mokelumne River viticultural area. The climates of the proposed Mokelumne River and Cosumnes River viticultural areas are the coolest within the existing Lodi viticultural area, the petition explains. However, as the petition notes, the Mokelumne River area has less heat accumulation than the Cosumnes River area due to the Mokelumne area's exposure to more intense cooling marine winds.

The proposed Mokelumne River viticultural area, the petition continues, is the closest of the seven proposed Lodi viticultural areas to the Carquinez Strait that funnels cool Pacific Ocean breezes eastward from the Golden Gate, through the Sacramento Delta, to the Lodi area. The winds in the proposed Mokelumne River viticultural area are of high intensity and prolonged duration, blowing more than 70 percent of the time, the petition states. The winds lose little intensity as they cross the low elevations and flat terrain within the proposed boundaries, according to the petition.

The mean annual temperature within the proposed Mokelumne viticultural area is 60.0 degrees Fahrenheit, which is the same as the Cosumnes River area to the north but lower than that of each of the other proposed viticultural areas discussed in this document, according to the petition. While the mean annual temperatures of the Mokelumne and Cosumnes areas are the same, the annual degree day total for the Mokelumne area is between 50 and 450 degree days lower than the totals for the other six proposed viticultural areas discussed in this document. Rainfall within the proposed Mokelumne River viticultural area is 17.57 inches, which is the next-to-lowest of the seven

proposed viticultural areas discussed in this document, the petition states.

Sloughhouse

The proposed Sloughhouse viticultural area is located in southern Sacramento County, approximately 21 miles southeast of the city of Sacramento and 22 miles north of the city of Lodi. Located in the northeastern portion of the existing Lodi viticultural area, approximately 7,000 acres within the 78,800-acre proposed Sloughhouse viticultural area are currently planted to grapes, according to the petition.

The petition states that warmer temperatures, more rain, less fog, higher elevations, and older soils distinguish the proposed Sloughhouse viticultural area from the other proposed viticultural areas discussed in this document. The proposed Sloughhouse viticultural area, which is also adjacent to the established Sierra Foothills viticultural area (27 CFR 9.120), has rolling plains and hilly terrain that transitions to the Sierra Foothills further east, according to the petition.

Below, we summarize the evidence presented in the Sloughhouse petition.

Name Evidence

The Sacramento Bee newspaper published an article on January 19, 1998, detailing the history of the Sloughhouse region. In the 1850's the Sloughhouse Inn, which gave the region its name, was a popular stagecoach stop. According to the article, the building, rebuilt several times after fires, is a registered California historical landmark. Today, the Sloughhouse Inn is a restaurant. Modern usage of the Sloughhouse name, according to petition evidence, is also seen in the names of the Sloughhouse Resource Conservation District, the Sloughhouse Fire Protection District, and the Sloughhouse Area Genealogical Society.

The USGS Geographic Names Information System (GNIS) database lists "Sloughhouse" as a populated place in Sacramento County, California. The USGS Sloughhouse quadrangle map shows the hamlet of Sloughhouse along State Road 16 on the Township 7 and 8 North line, between Ranges 6 and 7 East. Sloughhouse Road, a secondary road, is shown on the USGS Elk Grove and Sloughhouse maps within the proposed viticultural area boundary lines.

Boundary Evidence

Warmer temperatures, less intense winds, more rainfall, and greater climatic variations distinguish the proposed Sloughhouse viticultural area from the surrounding areas within the existing Lodi viticultural area according to the petition. It adds that elevations within the proposed Sloughhouse viticultural area are generally higher and the soils older than the other surrounding proposed viticultural areas. The distinguishing Sloughhouse terrain and climatic characteristics, the petition explains, make this proposed viticultural area significantly different from the surrounding areas. Red varietals, including Cabernet Sauvignon, Cabernet Franc, Merlot, and Zinfandel, are popular in the Sloughhouse area as they can withstand drought and other climatic variations, the petition states.

The proposed Sloughhouse area's outer boundaries follow a portion of the existing Lodi viticultural area northern and eastern boundary lines, and the proposed area abuts the established Sierra Foothills viticultural area western boundary line. The petition explains that the shared Lodi and Sierra Foothills viticultural areas boundary line, which coincides with the Amador County line, is the logical division between the valley and mountain environments.

Distinguishing Features

Topography

The proposed Sloughhouse viticultural area, the petition states, has the most diverse terrain of the seven proposed viticultural areas discussed in this document. Gently rolling hills, flat creek and river valleys, plains, and an alluvial fan characterize the proposed viticultural area, according to the petition.

The proposed Sloughhouse viticultural area ranges in elevation from a low of 73 feet in its southwest region to a high of 590 feet in its northeast region, according to the provided USGS maps. The northeast region of Sloughhouse, which has the highest elevations in the proposed area, slopes upward and becomes the bedrock-based foothills of the Sierra Range, the petition notes. These higher elevations are similar to Borden Ranch to the south, but contrast with the lower elevations of between 35 and 138 feet of the proposed Alta Mesa viticultural area to the west.

Three significant waterways, the Cosumnes River and its Deer Creek and Laguna tributaries flow west from the Sierra Foothills through the proposed Sloughhouse viticultural area. Deer Creek constitutes the northeastern boundary line of the proposed viticultural area, as noted in the petition's boundary description. Deer Creek, according to USGS maps, then meanders southwesterly through the interior of the proposed Sloughhouse area. The Cosumnes River runs roughly parallel to Deer Creek and through the approximate middle of the proposed Sloughhouse viticultural area. Deer Creek eventually joins the Cosumnes River to the west of the proposed viticultural area. The Laguna forms the south boundary line for the proposed Sloughhouse viticultural area and joins the Cosumnes River and Deer Creek to the west of the proposed area.

Soils

The petition notes that the predominant soils in the western portion of the proposed Sloughhouse viticultural area are found on an older alluvial fan. Classified as Durixeralfs and Haploxeralfs, the soils series found there include a complex of Redding, Corning, Pentz, and Hadlesville soils, which are generally of low vigor. Older soils, including patches of significantly older soils, are found in the higher eastern elevations of the proposed viticultural area. These older soils formed from sedimentary, metamorphic, and volcanic rock, including Sierra basement granite. Also, the Cosumnes River, Deer Creek, and the Laguna have left older river deposits within the proposed Sloughhouse viticultural area, according to the petition.

Climate

The petition uses statistics and data from the Lodi, Sacramento and especially the Folsom weather stations, located close to the proposed Sloughhouse viticultural area. The petition explains that the proposed Sloughhouse viticultural area has a climate distinguishable from the surrounding proposed viticultural areas due to its combination of warm growing season temperatures and heavy winter rains.

The Sloughhouse area, at 61.6 mean annual degrees Fahrenheit, is the warmest of the seven proposed viticultural areas within the existing Lodi viticultural area, the petition states. The average degree day total for the Sloughhouse area, according to the petition, is more than 200 degree days higher than that of the proposed Alta Mesa area to the immediate west and more than 300 degree days higher than that of the cooler proposed Borden Ranch and Clements Hills areas to the south.

The proposed Sloughhouse viticultural area, the petition claims, experiences little marine sea breeze influence as compared to the other proposed viticultural areas to the west, which are closer to the Sacramento Delta. Also, the Alta Mesa "table-top" landform, to the immediate west, acts as

a buffer between the west-to-east marine breezes and the proposed Sloughhouse area.

The proposed Sloughhouse viticultural area receives more rain, 23-inches annually according to petition documentation, than the other proposed viticultural areas discussed in this document. The petition states that to the west of the proposed Sloughhouse area, the proposed Alta Mesa viticultural area averages 18.5 inches annual rainfall, and, to the south, the proposed Borden Ranch viticultural area averages 20 inches annual rainfall. Also, other proposed viticultural areas discussed in this document average as low as 17.4 inches of annual rainfall, the petition notes.

In addition, fog is less frequent in the proposed Sloughhouse viticultural area than in the adjacent lower elevation and cooler proposed Alta Mesa viticultural area to the west, the petition states. The upland environment, with less cooling marine influence and warmer temperatures, discourages the formation of fog.

Notice of Proposed Rulemaking and Comments Received

TTB published Notice No. 50 regarding the proposed Alta Mesa, Borden Ranch, Clements Hills, Cosumnes River, Jahant, Mokelumne River, and Sloughhouse viticultural areas in the **Federal Register** (70 FR 47740) on August 15, 2005. We received ten comments in response to the notice. All ten comments strongly favor the establishment of the seven viticultural areas. The comments focused on the appropriateness of the names, the differing distinguishing features of the petitioned areas, and the potential marketing advantage for the areas' wines.

TTB Finding

After careful review of the petition and the ten comments received, TTB finds that the evidence submitted supports the establishment of the proposed viticultural areas. Therefore, under the authority of the Federal Alcohol Administration Act and part 4 of our regulations, we establish the "Alta Mesa," "Borden Ranch," "Clements Hills," "Cosumnes River," "Jahant," "Mokelumne River," and "Sloughhouse" viticultural areas in southern Sacramento and northern San Joaquin Counties in California, effective 30 days from the publication date of this document.

Boundary Description

See the narrative boundary descriptions of the seven viticultural areas in the regulatory texts published at the end of this document.

Maps

The maps for determining the boundaries of the seven viticultural areas are listed below in the regulatory texts.

Impact on Current Wine Labels

Part 4 of the TTB regulations prohibits any label reference on a wine that indicates or implies an origin other than the wine's true place of origin. With the establishment of the "Alta Mesa," "Borden Ranch," "Clements Hills," "Jahant," and "Sloughhouse" viticultural areas and their inclusion in part 9 of the TTB regulations, their full names are recognized as names of viticultural significance. The text of the new regulations clarifies this point. Consequently, wine bottlers using "Alta Mesa," "Borden Ranch," "Clements Hills," "Jahant," or "Sloughhouse" in a brand name, including a trademark, or in another label reference as to the origin of the wine, must ensure that the product is eligible to use the viticultural area name in question as an appellation of origin.

With the establishment of the Cosumnes River and Mokelumne River viticultural areas and their inclusion in part 9 of the TTB regulations, the full names "Cosumnes River" and "Mokelumne River" are recognized as names of viticultural significance. In addition, the term "Cosumnes" or "Mokelumne" standing alone are considered terms of viticultural significance since consumers and vintners could reasonably attribute the quality, reputation, or other characteristic of wine made from grapes grown in the Cosumnes River or Mokelumne River viticultural areas to the names "Cosumnes" or "Mokelumne" alone. The text of the new regulations clarifies these points. Consequently, wine bottlers using "Cosumnes River," "Cosumnes," "Mokelumne River," or "Mokelumne" in a brand name, including a trademark, or in another label reference as to the origin of the wine, must ensure that the product is eligible to use the viticultural area name or term in question as an appellation of origin.

For a wine to be eligible to use as an appellation of origin a viticultural area name or other term specified as being viticulturally significant in part 9 of the TTB regulations, at least 85 percent of the wine must be derived from grapes grown within the area represented by that name or other viticulturally significant term, and the wine must meet the other conditions listed in 27 CFR 4.25(e)(3). If the wine is not eligible to use the viticultural area name or other viticulturally significant term as an appellation of origin and that name or term appears in the brand name, then the label is not in compliance and the bottler must change the brand name and obtain approval of a new label. Similarly, if the viticultural area name or other viticulturally significant term appears in another reference on the label in a misleading manner, the bottler would have to obtain approval of a new label.

Different rules apply if a wine has a brand name containing a viticultural area name that was used as a brand name on a label approved before July 7, 1986. See 27 CFR 4.39(i)(2) for details.

Regulatory Flexibility Act

We certify that this regulation will not have a significant economic impact on a substantial number of small entities. This regulation imposes no new reporting, recordkeeping, or other administrative requirement. Any benefit derived from the use of a viticultural area name is the result of a proprietor's efforts and consumer acceptance of wines from that area. Therefore, no regulatory flexibility analysis is required.

Executive Order 12866

This rule is not a significant regulatory action as defined by Executive Order 12866, 58 FR 51735. Therefore, it requires no regulatory assessment.

Drafting Information

N.A. Sutton of the Regulations and Rulings Division drafted this document.

List of Subjects in 27 CFR Part 9

Wine.

The Regulatory Amendment

■ For the reasons discussed in the preamble, we amend title 27 CFR, chapter 1, part 9, as follows:

PART 9—AMERICAN VITICULTURAL AREAS

■ 1. The authority citation for part 9 continues to read as follows:

Authority: 27 U.S.C. 205.

Subpart C—American Viticultural Areas

■ 2. Amend subpart C by adding § 9.195 through § 9.201 to read as follows:

§ 9.195 Alta Mesa.

(a) *Name.* The name of the viticultural area described in this section is "Alta Mesa". For purposes of part 4 of this

chapter, "Alta Mesa" is a term of viticultural significance.

(b) *Approved maps.* The seven United States Geological Survey, 1:24,000 scale, topographic quadrangle maps used to determine the boundary of the Alta Mesa viticultural area are titled—

(1) North Lodi, Calif., 1968, photorevised 1976;

(2) Galt, Calif., 1968, photorevised 1980;

(3) Florin, Calif., 1968, photorevised 1980;

(4) Elk Grove, Calif., 1968, photorevised 1979;

(5) Sloughhouse, Calif., 1968, photorevised 1980, minor revision 1993;

(6) Clay, Calif., 1968, photorevised 1980, minor revision 1993; and

(7) Lockeford, Calif., 1968, photorevised 1979, minor revision 1993.

(c) *Boundary.* The Alta Mesa viticultural area is located in Sacramento County, California, and is entirely within the Lodi viticultural area (27 CFR 9.107). The Alta Mesa viticultural area boundary is as follows:

(1) The beginning point is on the Lodi North map at the intersection of Kost Road and the Southern Pacific railway, section 34, T5N, R6E. From the beginning point, proceed north-northwest 8.7 miles along the Southern Pacific railway to its intersection with State Route 99 at McConnel, section 20, T6N, R6E (Galt Quadrangle); then

(2) Proceed northwest 4.7 miles on State Route 99 to its intersection with Sheldon Road at the northern boundary of section 26, T7N, R5E (Florin Quadrangle); then

(3) Proceed east 5.2 miles on Sheldon Road to its intersection with the Central California Traction railroad at the northern boundary of section 27, T7N, R6E (Elk Grove Quadrangle); then

(4) Proceed southeast 3.85 miles along the Central California Traction railroad to Grant Line Road, then southwest on Grant Line Road to Wilton Road at the hamlet of Sheldon, and then continue southeast on Wilton Road to its intersection with Dillard Road, section 6, T6N, R7E (Elk Grove Quadrangle); then

(5) Proceed northeast 2.6 miles on Dillard Road to its intersection with Lee Shorthorn Road, T7N, R7E (Sloughhouse Quadrangle); then

(6) Proceed southeast 0.9 mile on Lee Shorthorn Road to its intersection with Tavernor Road, T7N, R7E (Sloughhouse Quadrangle); then

(7) Proceed south 0.95 mile on Tavernor Road to its first 90 degree turn to the west (where two unimproved roads join Tavernor Road from the east and south), section 4, T6N, R7E (Sloughhouse Quadrangle); then

(8) Continue due south 1 mile in a straight line to the line's intersection with the 105-foot contour line and an unimproved extension of Blake Road, section 9, T6N, R7E (Sloughhouse Quadrangle); then

(9) Proceed west 0.3 mile on the unimproved extension of Blake Road to its intersection with Tavernor Road, section 9, T6N, R7E (Sloughhouse Quadrangle); then

(10) Proceed south 0.7 mile on Tavernor Road to the center of the loop at the end of the road, section 16, T6N, R7E (Sloughhouse Quadrangle); then

(11) Proceed southwest in a straight line for 0.1 mile to the line's intersection with the east end of the landing strip shown in the northwest quadrant of section 16, T6N, R7E (Sloughhouse Quadrangle); then

(12) Proceed west along the landing strip and a line extending from its western end to the line's intersection with Alta Mesa Road on the eastern boundary of section 17, T6N, R7E (Sloughhouse Quadrangle); then

(13) Proceed south 6.1 miles on Alta Mesa Road, crossing State Route 104, to Alta Mesa Road's intersection with Borden Road at the southwest corner of section 9, T5N, R7E (Clay Quadrangle); then

(14) Proceed east 1 mile on Borden Road to its intersection with Alabama Road at the southeast corner of section 9, T5N, R7E (Clay Quadrangle); then

(15) Proceed south 2 miles on Alabama Road to its intersection with Simmerhorn Road at the southeast corner of section 21, T5N, R7E (Clay Quadrangle); then

(16) Proceed east 2 miles on Simmerhorn Road to its intersection with Clay Station Road at the northeast corner of section 26, T5N, R7E (Clay Quadrangle); then

(17) Proceed south 0.5 mile on Clay Station Road to its intersection with Dry Creek, section 26, T5N, R7E (Clay Quadrangle); then

(18) Proceed west-southwest (downstream) 7.8 miles along Dry Creek, crossing over the northwest corner of the Lockeford map, and twice crossing over the southeast corner of the Galt map, to Dry Creek's intersection with Lincoln Way, section 35, T5N, R6E (Lodi North Quadrangle); then

(19) Proceed northwest 0.1 mile on Lincoln Way to its intersection with Kost Road, section 35, T5N, R6E (Lodi North Quadrangle); and

(20) Proceed west 0.3 mile on Kost Road, returning to the beginning point.

§ 9.196 Borden Ranch.

(a) *Name.* The name of the viticultural area described in this section is "Borden Ranch". For purposes of part 4 of this chapter, "Borden Ranch" is a term of viticultural significance.

(b) *Approved maps.* The six United State Geological Survey, 1:24,000 scale, topographic quadrangle maps used to determine the boundary of the Borden Ranch viticultural area are titled—

(1) Lockeford, Calif., 1968, photorevised 1979, minor revision 1993;

(2) Clay, Calif., 1968, photorevised 1980, minor revision 1993;

(3) Sloughhouse, Calif., 1968, photorevised 1980, minor revision 1993;

(4) Carbondale, Calif., 1968, photorevised 1980, minor revision 1993;

(5) Goose Creek, Calif., 1968, photorevised 1980, minor revision 1993; and

(6) Clements, Calif., 1968, minor revision 1993.

(c) *Boundary.* The Borden Ranch viticultural area is located in Sacramento and San Joaquin Counties, California, and is entirely within the Lodi viticultural area (27 CFR 9.107). The Borden Ranch viticultural area boundary is as follows:

(1) The beginning point is on the Lockeford map at the intersection of Liberty Road and Elliott Road at the southwest corner of section 36, T5N, R7E. From the beginning point, proceed north 2 miles on Elliot Road, which becomes Clay Station Road upon crossing the Sacramento-San Joaquin County line at Dry Creek, to Clay Station Road's intersection with Simmerhorn Road, at the southeast corner of section 23, T5N, R7E (Clay Quadrangle); then

(2) Proceed west 2 miles on Simmerhorn Road to its intersection with Alabama Road at the southwest corner of section 22, T5N, R7E (Clay Quadrangle); then

(3) Proceed north 2 miles on Alabama Road to its intersection with Borden Road at the northwest corner of section 15, T5N, R7E (Clay Quadrangle); then

(4) Proceed west 1 mile on Borden Road to its intersection with Alta Mesa Road at the southwest corner of section 9, T5N, R7E (Clay Quadrangle); then

(5) Proceed north 1.35 miles on Alta Mesa Road, crossing State Route 104, to Alta Mesa Road's intersection with the Laguna tributary along the western boundary line of section 4, T5N, R7E (Clay Quadrangle); then

(6) Proceed easterly (upstream) about 16.5 miles along the meandering Laguna tributary, crossing over the southeast corner of the Sloughhouse map, to the Laguna's intersection with the Sacramento-Amador County line, 0.75 mile south of the Ione Road, T6N, R9E (Carbondale Quadrangle); then

(7) Proceed south and then southeast about 10.8 miles along the Sacramento-

Amador and Sacramento-San Joaquin County lines, crossing over the Goose Creek map, to the County line's intersection with Liberty Road, section 32, T5N, R9E (Clements Quadrangle); and

(8) Proceed west about 9.3 miles west along Liberty Road, returning to the beginning point.

§ 9.197 Clements Hills.

(a) *Name.* The name of the viticultural area described in this section is "Clements Hills". For purposes of part 4 of this chapter, "Clements Hills" is a term of viticultural significance.

(b) *Approved maps.* The six United States Geological Survey 1:24,000 scale, topographic quadrangle maps used to determine the boundary of the Clements Hills viticultural area are titled—

(1) Waterloo, Calif., 1968, photoinspected 1978;

(2) Lockeford, Calif., 1968, photorevised 1979, minor revision 1993;

(3) Clements, Calif., 1968, minor revision 1993;

(4) Wallace, Calif., 1962;

(5) Valley Springs SW., Calif., 1962, photoinspected 1973; and

(6) Linden, Calif., 1968, minor revision 1993.

(c) *Boundary.* The Clements Hills viticultural area is located in San Joaquin County, California, and is entirely within the Lodi viticultural area (27 CFR 9.107). The Clements Hills viticultural areas boundary is as follows—

(1) The beginning point is on the Waterloo map at the intersection of the Calaveras River and Jack Tone Road, section 31 west boundary line, T3N, R8E. From the beginning point, proceed north 6.9 miles on Jack Tone Road to its intersection with Elliot Road in the village of Lockeford (where Jack Tone Road is known as E. Hammond Street for a short distance), section 30, T4N, R8E (Lockeford Quadrangle); then

(2) Proceed northwest 5.4 miles on Elliott Road, crossing the Mokelumne River, to Elliott Road's intersection with Liberty Road at the northwest corner of section 1, T4N, R7E, (Lockeford Quadrangle); then

(3) Proceed east 9.3 miles on Liberty Road to its junction with the San Joaquin-Amador County line, north of the Camanche Reservoir, section 32, T5N, R9E (Clements Quadrangle); then

(4) Proceed south-southeast 13 miles along the San Joaquin-Amador and San Joaquin-Calaveras County lines, crossing over the Wallace map, to the County line's intersection with the Calaveras River, section 31, T3N, R10E (Valley Springs SW., Quadrangle); and

(5) Proceed southwest (downstream) 14.2 miles along the Calaveras River, crossing over the Linden map, returning to the beginning point.

§ 9.198 Cosumnes River.

(a) *Name.* The name of the viticultural area described in this section is "Cosumnes River". For purposes of part 4 of this chapter, "Cosumnes River" and "Cosumnes" are terms of viticultural significance.

(b) *Approved maps.* The six United States Geological Survey, 1:24,000 scale, topographic quadrangle maps used to determine the boundary of the Cosumnes River viticultural area are titled—

(1) Bruceville, Calif., 1968, photorevised 1980;

(2) Florin, Calif., 1968, photorevised 1980;

(3) Elk Grove, Calif., 1968, photorevised 1979;

(4) Galt, Calif., 1968, photorevised 1980;

(5) Lodi North, Calif.,1968, photorevised 1976; and

(6) Thornton, Calif., 1978.

(c) *Boundary.* The Cosumnes River viticultural area is located in Sacramento County, California, and is entirely within the Lodi viticultural area (27 CFR 9.107). The Cosumnes River viticultural area boundary is as follows—

(1) The beginning point is on the Bruceville map at the intersection of the Mokelumne River and Interstate Highway 5, T5N, R5E. From the beginning point, proceed north 8.5 miles along Interstate 5 to its intersection with an unnamed light duty road, locally known to the west of Franklin as Hood-Franklin Road, section 18, T6N, R5E (Florin Quadrangle); then

(2) Proceed east 1.2 miles straight on Hood-Franklin Road to its intersection with Franklin Boulevard in the village of Franklin, section 17, T6N, R5E (Florin Quadrangle); then

(3) Proceed north 4.3 miles on Franklin Boulevard to its intersection with Sims Road on the west and Sheldon Road to the east at the northwest corner of section 28, T7N, R5E (Florin Quadrangle); then

(4) Proceed east 2.4 miles on Sheldon Road to its intersection with State Route 99 at the northern boundary section 26, T7N, R5E (Florin Quadrangle); then

(5) Proceed south-southeast 6 miles on State Route 99, crossing over the Elk Grove map, to the road's intersection with the Southern Pacific railway line at McConnell, section 20, T6N, R6E (Galt Quadrangle); then

(6) Proceed south-southeast 8.7 miles along the Southern Pacific railway line to its intersection with Kost Road, section 34, T5N, R6E (Lodi North Quadrangle); then

(7) Proceed west and then north 3.8 miles on Kost Road to its intersection with New Hope Road, T5N, R6E (Lodi North Quadrangle); then

(8) Proceed west then south 2.8 miles on New Hope Road to its intersection with the Mokelumne River and the Sacramento-San Joaquin County line, T5N, R5E (Thornton Quadrangle); and

(9) Proceed northerly then westerly (downstream) for about 2.7 miles along the meandering Mokelumne River, returning to the beginning point.

§ 9.199 Jahant.

(a) *Name.* The name of the viticultural area described in this section is "Jahant". For purposes of part 4 of this chapter, "Jahant" is a term of viticultural significance.

(b) *Approved maps.* The five United States Geological Survey, 1:24000 scale, topographic quadrangle maps used to determine the boundary of the Jahant viticultural area are titled—

(1) Lodi North, Calif., 1968, photorevised 1976;

(2) Thornton, Calif., 1978;

(3) Galt, Calif., 1968, photorevised 1980;

(4) Lockeford, Calif., 1968, photorevised 1979; and

(5) Clay, Calif., 1968, photorevised 1980, minor revision 1993.

(c) *Boundary.* The Jahant viticultural area is located in Sacramento and San Joaquin Counties, California, and is entirely with the Lodi viticultural area (27 CFR 9.107). The Jahant viticultural area boundary is as follows—

(1) The beginning point is on the Lodi North map at the intersection of Peltier Road and the Mokelumne River, section 16 south boundary line, T4N, R6E. From the beginning point, proceed westerly (downstream) 6.7 miles along the Mokelumne River to its intersection with New Hope Road, about 0.7 mile north of the village of Thornton, T5N, R5E (Thornton Quadrangle); then

(2) Proceed north then east for 3 miles on New Hope Road to its intersection with Kost Road, T5N, R6E (Lodi North Quadrangle); then

(3) Proceed south then east for 4.1 miles on Kost Road to its intersection with Lincoln Way, section 35, T5N, R6E (Lodi North Quadrangle); then

(4) Proceed southeast 0.15 mile on Lincoln Way to its intersection with Dry Creek, section 35, T5N, R6E (Lodi North Quadrangle); then

(5) Proceed easterly (upstream) 7 miles along Dry Creek, crossing twice over and back at the southeast corner of the Galt map, and then crossing over the northwest corner of the Lockeford map, to Dry Creek's intersection with Elliott Road, section 26, T5N, R7E (Clay Quadrangle); then

(6) Proceed south 4.5 miles on Elliott Road to its intersection with Peltier Road at the southeast corner of section 14, T4N, R7E (Lockeford Quadrangle); and

(7) Proceed west 8.3 miles on Peltier Road, returning to the beginning point.

§ 9.200 Mokelumne River.

(a) *Name.* The name of the viticultural area described in this section is "Mokelumne River". For purposes of part 4 of this chapter, "Mokelumne River" and "Mokelumne" are terms of viticultural significance.

(b) *Approved maps.* The seven United States Geological Survey, 1:24,000 scale, topographic quadrangle maps used to determine the boundary of the Mokelumne River viticultural area are titled—

(1) Lodi South, Calif., 1968, photorevised 1976;

(2) Terminous, Calif., 1978, minor revision 1993;

(3) Thornton, Calif., 1978;

(4) Bruceville, Calif., 1968, photorevised 1980;

(5) Lodi North, Calif., 1968, photorevised 1976;

(6) Lockeford, Calif., 1968, photorevised 1979, minor revision 1993; and

(7) Waterloo, Calif., edition of 1968, photoinspected 1978.

(c) *Boundary.* The Mokelumne River viticultural area is located in San Joaquin County, California, and is entirely within the Lodi viticultural area (27 CFR 9.107). The Mokelumne River viticultural area boundary is as follows—

(1) The beginning point is on the Lodi South map at the intersection of Eightmile Road and Interstate 5, section 36 south boundary line, T3N, R5E. From the beginning point, proceed north-northwest 14.7 miles on Interstate 5, crossing over the Terminous and Thornton maps, to the Interstate's intersection with the Mokelumne River, T5N, R6E (Bruceville Quadrangle); then

(2) Proceed southeast (upstream) 5 miles along the meandering Mokelumne River to its intersection with Peltier Road, section 16, T4N, R6E (Lodi North Quadrangle); then

(3) Proceed east 8.3 miles along Peltier Road to its intersection with Elliott Road at the northeast corner of section 23, T4N, R7E (Lockeford Quadrangle); then

(4) Proceed south then southeast 2.3 miles on Elliott Road to its intersection with Jack Tone Road in the village of Lockeford (where Jack Tone Road is known as E. Hammond Street for a short distance), section 30, T4N, R8E (Lockeford Quadrangle); then

(5) Proceed south 6.7 miles on Jack Tone Road to its intersection with the Calaveras River, section 36 east boundary line, T3N, R7E (Waterloo Quadrangle); then

(6) Proceed southwesterly (downstream) 0.9 mile along the meandering Calaveras River to its intersection with Eightmile Road, section 36 south boundary line, T3N, R7E (Waterloo Quadrangle); and

(7) Proceed west 8.6 miles on Eightmile Road, returning to the beginning point.

§ 9.201 Sloughhouse.

(a) *Name.* The name of the viticultural area described in this section is "Sloughhouse". For purposes of part 4 of this chapter, "Sloughhouse" is a term of viticultural significance.

(b) *Approved maps.* The six United States Geological Survey, 1:24,000 scale, topographic quadrangle maps used to determine the boundary of the Sloughhouse viticultural area are titled—

(1) Clay, Calif.; 1968, photorevised 1980, minor revision 1993;

(2) Sloughhouse, Calif., 1968, photorevised 1980, minor revision 1993;

(3) Elk Grove, Calif., 1968, photorevised 1979;

(4) Buffalo Creek, Calif., 1967, photorevised 1980;

(5) Folsom SE, Calif., 1954, photorevised 1980; and

(6) Carbondale, Calif., 1968, photorevised 1980, minor revision 1993.

(c) *Boundary.* The Sloughhouse viticultural area is located in Sacramento County, California, and is entirely within the Lodi viticultural area (27 CFR 9.107). The Sloughhouse viticultural area boundary is as follows—

(1) The beginning point is on the Clay map at the intersection of the Laguna estuary and Alta Mesa Road, on the western boundary of section 4, T5N, R7E. From the beginning point, proceed north 4.8 miles on Alta Mesa Road to the road's intersection with a line drawn due west from the western end of the landing strip shown in the northwestern quadrant of section 16, T6N, R7E (Sloughhouse Quadrangle); then

(2) Proceed east 0.5 mile to the eastern end of the landing strip, section 16, T6N, R7E (Sloughhouse Quadrangle); then

(3) Proceed northeast in a straight line 0.1 mile to the center of the loop at the south end of Tavernor Road, section 16, T6N, R7E (Sloughhouse Quadrangle); then

(4) Proceed north 0.75 mile on Tavernor Road to its intersection with Blake Road, section 9, T6N, R7E (Sloughhouse Quadrangle); then

(5) Proceed east 0.5 mile on the unimproved extension of Blake Road to its intersection with the 105-foot elevation line, section 9, T6N, R7E (Sloughhouse Quadrangle); then

(6) Proceed due north about 0.85 mile to the 90 degree turn in Tavernor Road and continue north about 0.9 mile on Tavernor Road to its intersection with Lee Shorthorn Road, T7N, R7E (Sloughhouse Quadrangle); then

(7) Proceed northwest 0.9 mile on Lee Shorthorn Road to its intersection with Dillard Road, T7N, R7E (Sloughhouse Quadrangle); then

(8) Proceed southwest about 2.6 miles on Dillard Road to its intersection with Wilton Road at the hamlet of Dillard, section 6, T6N, R7E (Elk Grove Quadrangle); then

(9) Proceed northwest 3.1 miles on Wilton Road to its intersection with Grant Line Road at the hamlet of Sheldon, section 27, T7N, R6E (Elk Grove Quadrangle); then

(10) Proceed northwest on Grant Line Road to its intersection with State Route 16 (Jackson Road), section 33, T8N, R7E (Buffalo Creek Quadrangle); then

(11) Proceed east-southeast 1.6 miles on State Route 16 to its intersection with Deer Creek at BM 108 near Sloughhouse, T8N, R7E (Sloughhouse Quadrangle); then

(12) Proceed northeasterly (upstream) about 11 miles along the meandering Deer Creek, crossing over the southeast corner of the Buffalo Creek map, to the creek's intersection with the Sacramento-El Dorado County line, section 1, T8N, R8E (Folsom, S.E. Quadrangle); then

(13) Proceed south-southeast followed by south for about 12.4 miles along the Sacramento-El Dorado and Sacramento-Amador County line to the County line's intersection with the Laguna estuary, 0.75 mile south of the Ione Road, T6N, R9E (Carbondale Quadrangle); and

(14) Proceed westerly (downstream) 17.5 miles along the meandering Laguna estuary, crossing over the Sloughhouse map, and return to the beginning point on the Clay Quadrangle.

Signed: May 19, 2006.

John J. Manfreda,

Administrator.

Approved: June 15, 2006.

Timothy E. Skud,

Deputy Assistant Secretary (Tax, Trade, and Tariff Policy).

[FR Doc. E6–11079 Filed 7–14–06; 8:45 am]

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DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 117

[CGD05–06–017]

RIN 1625–AA09

Drawbridge Operation Regulations; Atlantic Intracoastal Waterway (Alternate Route), Great Dismal Swamp Canal, South Mills, NC

AGENCY: Coast Guard, DHS.

ACTION: Final rule.

SUMMARY: The Coast Guard is establishing regulations that govern the operation of the new Great Dismal Swamp Canal Bridge, at the Alternate Route of the Atlantic Intracoastal Waterway (AICW) mile 28.0, in South Mills, NC. The final rule will maintain a level of operational capabilities that will continue to provide for the reasonable needs of the North Carolina Department of Parks and Recreation Visitor Center, at the Great Dismal Swamp, and vessel navigation.

DATES: This rule is effective August 16, 2006.

ADDRESSES: Comments and material received from the public, as well as documents indicated in this preamble as being available in the docket, are part of docket CGD05–06–017 and are available for inspection or copying at Commander (dpb), Fifth Coast Guard District, Federal Building, 1st Floor, 431 Crawford Street, Portsmouth, VA 23704–5004 between 8 a.m. and 4 p.m., Monday through Friday, except Federal holidays. The Fifth Coast Guard District maintains the public docket for this rulemaking.

FOR FURTHER INFORMATION CONTACT: Bill H. Brazier, Bridge Management Specialist, Fifth Coast Guard District, at (757) 398–6422.

SUPPLEMENTARY INFORMATION:

Regulatory History

On April 6, 2006, we published a notice of proposed rulemaking (NPRM) entitled "Drawbridge Operation Regulation; Atlantic Intracoastal Waterway (Alternate Route), Great Dismal Swamp Canal, NC" in the **Federal Register** (66 FR 17394). We received one comment on the proposed rule. No public meeting was requested, and none was held.

Background and Purpose

The North Carolina Department of Parks and Recreation (NC Parks and Recreation) will own and operate this new swing-type bridge at the Alternate Route of the AICW mile 28.0 across the Great Dismal Swamp Canal. This final rule will allow the new Great Dismal Swamp Canal Bridge to remain open to vessel traffic, closing only for pedestrian crossings and periodic maintenance. This rule will also allow the Great Dismal Swamp Canal Bridge to be operated by the Park Service Rangers at the Great Dismal Swamp Visitors Center. The controller will also monitor marine channel 13.0.

The final rule will require the draw to remain in the open-to-navigation position and only close to allow pedestrians (visitors to the park) to cross the bridge, and for periodic maintenance, and then the bridge will immediately reopen to navigation once the pedestrians have crossed the bridge. This will provide for an even flow of vessel traffic along the Great Dismal Swamp.

Discussion of Comments and Changes

The Coast Guard received one comment from the NC Parks and Recreation. The NC Parks and Recreation provided the following information to correct slight inaccuracies in the background and purpose of this rule: (1) The Park Service Rangers at the Great Dismal Swamp Visitors Center will not operate the new bridge at a remote location; (2) There are no closed circuit cameras or infrared sensors installed; and (3) There will be no nighttime operation of the new bridge since the Deep Creek Lock System, which provides access to and from the Alternate Route of the AICW Great Dismal Swamp, functions daily only at 8:30 a.m., 11 a.m., 1:30 p.m. and 3:30 p.m., therefore installation of the channel traffic lights will not be required.

The Coast Guard has incorporated the following changes: Insert the word "Great" preceding the phrase "Dismal Swamp Canal". This will accurately reflect the proper name used for this waterway.

Revise paragraph (b) to read "The bridge shall be operated by the Park Service Rangers at the Great Dismal Swamp Visitors Center." Remove in paragraphs (b) and (c) the sentences: "The remote operator shall monitor vessel traffic with closed circuit cameras and infrared sensors covering the swing radius." And, "The bridge shall not be operated from the remote location in the following events: Failure or obstruction of the infrared sensors, closed-circuit cameras or marine-radio communications, or when remote operator's visibility is impaired", respectively.

In paragraph (d), remove the word "remote". Revise paragraph (e) to read "Before closing the draw, the horn will sound five short blasts. Five short blasts of the horn will continue until the Bridge is seated and locked down to vessels." Revise paragraph (f) to read "When pedestrian traffic has cleared, the horn will sound one prolonged blast followed by one short blast to indicate the draw is opening to vessel traffic."

Discussion of Rule

The Coast Guard will adopt new regulations to govern the operation of the Great Dismal Swamp Canal Bridge, at mile 28.0, in South Mills, NC. The Coast Guard will insert this new specific regulation at 33 CFR 117.820. The final rule will allow the draw of the bridge to be operated by Park Service Rangers at the Great Dismal Swamp Visitors Center.

The draw will remain in the open position for navigation and shall only be closed for the crossing of pedestrians and periodic maintenance authorized in accordance with subpart A of this part.

Before the Great Dismal Swamp Visitor Center Bridge closes for any reason, the operator will monitor waterway traffic in the area. The bridge will only be closed if the operator's visual inspection shows that the channel is clear and there are no vessels transiting in the area.

While the Great Dismal Swamp Visitor Center Bridge is moving from the full open to the full closed position, the operator will maintain constant surveillance of the navigation channel to ensure that no conflict with maritime traffic exists.

Before closing the draw, the horn will sound five short blasts. Five short blasts of the horn will continue until the bridge is seated and locked down to vessels.

When pedestrian traffic has cleared, the horn will sound one prolonged blast followed by one short blast to indicate that the draw of the Great Dismal Swamp Canal Bridge is about to return to its full open position to vessels.

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 rule to be so minimal that a full Regulatory Evaluation under the regulatory policies and procedures of DHS is unnecessary. We reached this conclusion based on the fact that the proposed changes have only a minimal impact on maritime traffic transiting the bridge. Although the Great Dismal Swamp Canal Bridge will be untended and operated by Park Service Rangers at the Great Dismal Swamp Visitors Center, mariners can continue their transits because the bridge will remain open to mariners, only to be closed for pedestrian crossings or periodic maintenance.

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 would not have a significant economic impact on a substantial number of small entities.

This rule would not have a significant economic impact on a substantial number of small entities for the following reason. The rule allows the Great Dismal Swamp Canal Bridge to be operated by Park Service Rangers at the Great Dismal Swamp Visitors Center and requires the bridge to remain in the open position to vessels the majority of the time, only closing for pedestrian crossings or periodic maintenance.

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. No assistance was requested from any small entity.

Collection of Information

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

Federalism

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

Unfunded Mandates Reform Act

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

Taking of Private Property

This rule would 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 would not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes.

Energy Effects

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

Technical Standards

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

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

Environment

We have analyzed this rule under Commandant Instruction M16475.lD and Department of Homeland Security Management Directive 5100.1, which guide 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 because it has been determined that the promulgation of operating regulations for drawbridges are categorically excluded.

List of Subjects in 33 CFR Part 117

Bridges.

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

PART 117—DRAWBRIDGE OPERATION REGULATIONS

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

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

■ 2. Add new § 117.820 to read as follows:

§ 117.820 Atlantic Intracoastal Waterway (Alternate Route), Great Dismal Swamp Canal.

The draw of the Great Dismal Swamp Canal Bridge, mile 28.0 at South Mills, NC, shall operate as follows:

(a) The draw shall remain in the open position for navigation. The draw shall only be closed for pedestrian crossings or periodic maintenance authorized in accordance with Subpart A of this part.

(b) The bridge shall be operated by the Park Service Rangers at the Great Dismal Swamp Visitors Center. Operational information will be provided 24 hours a day on marine channel 13.

(c) The bridge shall not be operated when the operator's visibility is impaired.

(d) Before the bridge closes for any reason, the operator will monitor waterway traffic in the area. The bridge shall only be closed if the operator's visual inspection shows that the channel is clear and there are no vessels transiting in the area. While the bridge is moving, the operator shall maintain constant surveillance of the navigation channel.

(e) Before closing the draw, the horn will sound five short blasts. Five short blasts of the horn will continue until the bridge is seated and locked down to vessels.

(f) When pedestrian traffic has cleared, the horn will sound one prolonged blast followed by one short blast to indicate the draw is opening to vessel traffic.

Dated: July 3, 2006.

L.L. Hereth,

Rear Admiral, United States Coast Guard, Commander, Fifth Coast Guard District.

[FR Doc. E6–11274 Filed 7–14–06; 8:45 am]

BILLING CODE 4910–15–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 51 and 93

[EPA–HQ–OAR–2004–0491; FRL–8197–4]

RIN 2060–AN60

$PM_{2.5}$ De Minimis Emission Levels for General Conformity Applicability

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The EPA is taking final action to amend its regulations relating to the Clean Air Act (CAA) requirement that Federal actions conform to the appropriate State, Tribal or Federal implementation plan for attaining clean air ("general conformity") to add *de minimis* emissions levels for particulate matter with an aerodynamic diameter equal or less than 2.5 microns ($PM_{2.5}$) National Ambient Air Quality Standards (NAAQS) and its precursors.

DATES: The final rule amendments are effective on July 17, 2006.

ADDRESSES: The EPA has established a docket for this action under Docket ID No. EPA–HQ–OAR–2004–0491. All documents in the docket are listed on the *http://www.regulations.gov* Web site. Although listed in the index, some information is not publicly available, *e.g.*, CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically through 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.

FOR FURTHER INFORMATION CONTACT: Mr. Thomas Coda, Office of Air Quality Planning and Standards, U.S. Environmental Protection Agency, Mail Code C539–02, Research Triangle Park, NC 27711, phone number (919) 541–3037 or by e-mail at *coda.tom@epa.gov*.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does This Action Apply to Me?

Today's action applies to all Federal agencies and Federal activities.

II. Background

A. What Is General Conformity and How Does It Affect Air Quality?

The intent of the General Conformity requirement is to prevent the air quality impacts of Federal actions from causing or contributing to a violation of the NAAQS or interfering with the purpose of a State implementation plan (SIP). For the purpose of this rule, the term "State implementation plan (SIP)" refers to all approved applicable and enforceable State, Federal and Tribal implementation plans (TIPs).

In the CAA, Congress recognized that actions taken by Federal agencies could affect States, Tribes, and local agencies' abilities to attain and maintain the NAAQS. Section 176(c)(42 U.S.C. 7506) of the CAA requires Federal agencies to ensure that their actions conform to the applicable SIP for attaining and maintaining the NAAQS. The CAA Amendments of 1990 clarified and strengthened the provisions in section 176(c). Because certain provisions of section 176(c) apply only to highway and mass transit funding and approvals actions, EPA published two sets of regulations to implement section 176(c). The Transportation Conformity Regulations, first published on November 24, 1993 (58 FR 62188) and recently revised on July 1, 2004 (69 FR 40004) and May 6, 2005 (70 FR 24280), address Federal actions related to highway and mass transit funding and approval actions. The General Conformity Regulations, published on November 30, 1993 (58 FR 63214) and codified at 40 CFR 93.150, cover all other Federal actions. This action applies only to the General Conformity Regulations.

When the applicability analysis shows that the action must undergo a conformity determination, Federal agencies must first show that the action will meet all SIP control requirements such as reasonably available control measures, and the emissions from the action will not interfere with the timely attainment of the standard, the maintenance of the standard or the area's ability to achieve an interim emission reduction milestone. Federal agencies then must demonstrate conformity by meeting one or more of the methods specified in the regulation for determining conformity:

1. Demonstrating that the total direct [1] and indirect [2] emissions are specifically identified and accounted for in the applicable SIP,

2. Obtaining written statement from the State or local agency responsible for the SIP documenting that the total direct and indirect emissions from the action along with all other emissions in the

[1] Direct emissions are emissions of a criteria pollutant or its precursors that are caused or initiated by the Federal action and occur at the same time and place as the action.

[2] Indirect emissions are emissions of a criteria pollutant or its precursors that: (1) Are caused by the Federal action, but may occur later in time and/or may be further removed in distance from the action itself but are still reasonably foreseeable; and (2) the Federal agency can practically control or will maintain control over due to the controlling program responsibility of the Federal action.

area will not exceed the SIP emission budget,

3. Obtaining a written commitment from the State to revise the SIP to include the emissions from the action,

4. Obtaining a statement from the metropolitan planning organization (MPO) for the area documenting that any on-road motor vehicle emissions are included in the current regional emission analysis for the area's transportation plan or transportation improvement program,

5. Fully offset the total direct and indirect emissions by reducing emissions of the same pollutant or precursor in the same nonattainment or maintenance area, or

6. Where appropriate, in accordance with 40 CFR 51.858(4), conduct air quality modeling that can demonstrate that the emissions will not cause or contribute to new violations of the standards, or increase the frequency or severity of any existing violations of the standards.

B. Applicability Analysis for General Conformity

The National Highway System Designation Act of 1995, (Pub. L. 104–59) added section 176(c)(5) to the CAA to limit applicability of the conformity programs to areas designated as nonattainment under section 107 of the CAA and areas that had been redesignated as maintenance areas with a maintenance plan under section 175A of the CAA only. Therefore, only Federal actions taken in designated nonattainment and maintenance areas are subject to the General Conformity regulation. In addition, the General Conformity Regulations (58 FR 63214) recognize that the vast majority of Federal actions do not result in a significant increase in emissions and, therefore, include a number of regulatory exemptions, such as *de minimis* emission levels based on the type and severity of the nonattainment problem in an area.

In carrying out this type of applicability analysis, the Federal agency determines whether the total direct and indirect emissions from the action are below or above the *de minimis* levels. If the action is determined to have total direct and indirect emissions for a given pollutant that are at or above the *de minimis* level for that pollutant, Federal agencies must conduct a conformity determination for the pollutant unless the action is presumed to conform under the regulation or the action is otherwise exempt. If the action's emissions are below an applicable *de minimis* level, a Federal agency does not have to conduct a conformity determination.

C. Why Is EPA Establishing De Minimis Levels for $PM_{2.5}$ Emissions at This Time?

The EPA has not revised the General Conformity Regulations since they were promulgated in 1993, although EPA expects to promulgate, in a separate rulemaking, proposed revisions to the General Conformity Regulations in the near future. For the purposes of general conformity, the General Conformity Regulations (58 FR 63214) define NAAQS as "those standards established pursuant to section 109 of the Act and include standards for carbon monoxide (CO), Lead (Pb), nitrogen dioxide (NO_2), ozone, particulate matter (PM_{10}) and sulfur dioxide (SO_2)." Since 1993, EPA has reviewed and revised the NAAQS for particulate matter to include a new $PM_{2.5}$ standard ($PM_{2.5}$ is particulate matter with an aerodynamic diameter of up to 2.5 μ referred to as the fine particle fraction). Since $PM_{2.5}$ was established pursuant to section 109 of the CAA, general conformity requirements are applicable to areas designated nonattainment for this standard although it is not explicitly included in the examples of criteria pollutants in 58 FR 63214.

In July 1997, EPA promulgated two new NAAQS (62 FR 38652), one for an 8-hour ozone standard and one established pursuant to section 109 of the CAA for fine particulate matter known as $PM_{2.5}$. The new 8-hour and old 1-hour ozone NAAQS address the same pollutant but differ with respect to the averaging time, therefore, EPA retained the existing *de minimis* emission levels for ozone precursors.

The EPA designated areas as nonattainment for $PM_{2.5}$ on April 5, 2005. Subsequently, EPA has proposed regulations to implement the new particulate matter standard (70 FR 65984; November 1, 2005). Currently, there are no *de minimis* emission levels for $PM_{2.5}$. Although $PM_{2.5}$ is a subset of PM_{10}, it differs from the rest of PM_{10}. While the majority of ambient PM_{10} results from direct emissions of the pollutant, a significant amount of the ambient $PM_{2.5}$ can result not only from direct emissions but also from transformation of precursors and condensing of gaseous pollutants in the atmosphere. In the preamble to the proposed regulation to implement the new particulate matter standard, EPA included a discussion about the key pollutants potentially contributing to $PM_{2.5}$ concentrations in the atmosphere which are direct $PM_{2.5}$ emissions, SO_2, NO_X, VOC and ammonia (70 FR 65998). The discussion also included EPA's intent to issue a separate rulemaking to establish *de minimis* levels for Federal actions covered by the General Conformity program (70 FR 66033). At that time, EPA said it expected the levels would be identical to the nonattainment area major source levels for the New Source Review (NSR) program. While EPA recognized that SO_2, NO_X, VOC and ammonia are precursors of $PM_{2.5}$ in the scientific sense because these pollutants can contribute to the formation of $PM_{2.5}$ in the ambient air, the degree to which these individual precursors and pollutants contribute to $PM_{2.5}$ formation in a given location is complex and variable. For ammonia, there is uncertainty about emissions inventories and the potential efficacy of control measures from location to location. For VOC, the role and relationship of gaseous organic material in the formation of organic PM remains complex and further research and technical tools are needed to better characterize emissions inventories for specific VOC compounds. In light of these factors, EPA proposed in its rule to implement the $PM_{2.5}$ NAAQS that States are not required to address VOC's or ammonia as $PM_{2.5}$ nonattainment plan precursors, unless the State or EPA makes a finding that VOC's or ammonia significantly contribute to a $PM_{2.5}$ nonattainment problem in the State or to other downwind air quality concerns. For NO_X EPA proposed that States are required to address NO_X as a $PM_{2.5}$ nonattainment precursor, unless the State and EPA makes a finding that NO_X emissions from sources in the State do not significantly contribute to the $PM_{2.5}$ problem in a given area or to other downwind air quality concerns.

Section 176(c)(6) states that the general conformity requirements of section 176(c) do not apply to an area newly designated nonattainment for a new NAAQS until 1 year after such designation. The EPA made $PM_{2.5}$ designations on April 5, 2005; thus, the applicable general conformity requirements were not effective in these areas until April 5, 2006. Many Federal actions result in little or no direct or indirect emissions and EPA believes that non-exempt Federal actions that have covered emissions below the equivalent major source thresholds should not be required to prepare an applicability analysis under the general conformity rule. The general conformity rule should only apply to major sources, not *de minimis* sources. A different interpretation could result in an extremely wasteful process that generates vast numbers of useless

applicability analyses with no environmental benefit.

D. How Does EPA Determine the De Minimis Threshold?

The EPA has previously considered options and taken comment on how to set *de minimis* levels to determine applicability of general conformity requirements. The following is a summary of the options previously considered and the methodology used in setting *de minimis* levels. In this final rule, the EPA is using the same methodology to set $PM_{2.5}$ *de minimis* levels that the Agency previously used for other NAAQS pollutants.

In the preamble to the proposal for General Conformity Regulations (58 FR 13841), EPA recognized that the very broad definition of Federal action in the statute and the number of Federal agencies subject to the conformity requirements could create a requirement for individual conformity decisions in the thousands per day. To avoid creating an unreasonable administrative burden, EPA considered options for mechanisms to focus the efforts of affected agencies on key actions with significant environmental impact, rather than all actions. Prior to that proposal, EPA consulted with numerous Federal agencies, environmental groups, State and local air quality agencies, building industry representatives, and others. Following consultation, EPA initially proposed a *de minimis* level similar to that specified by EPA for modifications to major stationary sources under the CAA preconstruction review programs. Consequently, the *de minimis* levels proposed for general conformity were chosen to correspond to the emission rates defined in 40 CFR 51.165 (NSR) and 51.166 (prevention of significant deterioration) as "significant." Activities with emissions impacts below the proposed *de minimis* levels would not require conformity determinations.

After EPA received comments on this proposal, we responded in the preamble to the final General Conformity Regulations (58 FR 63228) and stated:

"Given the need to choose a threshold based on air quality criteria and one that avoids coverage of less significant projects, and in response to certain comments, the *de minimis* levels for conformity analyses in the final rule are based on the Act's major stationary source definitions–not the significance levels as proposed–for the various pollutants. Use of the *de minimis* levels assures that the conformity rule covers only major Federal actions. Under the major source definition, for example, the levels for ozone would range from 10 tons/year (VOC and NO_X) for an extreme ozone nonattainment area to 100 tons/year for marginal and moderate areas, not from 10 tons/year to 40 tons/year as proposed. The *de minimis* levels proposed were generally those used to define when modifications to existing stationary sources require preconstruction review. It was pointed out to EPA in comments on the proposal that these thresholds would result in the need to perform a conformity analysis and determination for projects that constituted a 'modification' to an existing source but not a 'major' source in some cases. The EPA agrees that conformity applies more appropriately to 'major' source and after careful consideration has decided to revise its original proposal in the final rule to use the emissions levels that define a major source, except as described above for lead. The definition of a major source under the amended Act is explained in more detail in the April 16, 1992 **Federal Register** in the EPA's General Preamble to Title I (57 FR 13498). Section 51.853(b)(3) of the rule has also been revised to remove the provisions that would automatically lower the *de minimis* levels to that established for stationary sources by the local air quality agency. In keeping with its conclusion that only major sources should be subject to conformity review, EPA agrees that a zero emissions threshold as established by some local agencies, should not be required by this rule."

The EPA adopts this rationale for the *de minimis* levels we are setting for $PM_{2.5}$ in this final action.

This mechanism of relying on the major stationary source levels in the statute as *de minimis* levels for conformity has worked well over the last 12 years to lessen the administrative burden of Federal agencies for actions that emit relatively low emissions while addressing actions with significant emissions that could affect attainment of the NAAQS. The EPA believes it is appropriate to continue to use major stationary source levels as *de minimis* levels for the $PM_{2.5}$ NAAQS in line with past practice and recognizing that Congress generally concluded it was appropriate to apply more stringent air quality review requirements to major sources. For this reason, EPA has decided to use this reasonable and effective mechanism for setting *de minimis* levels for $PM_{2.5}$.

The EPA proposed regulations to implement the new particulate matter standard (70 FR 65984) on November 1, 2005). In the preamble to that proposal, EPA included a discussion about the key pollutants potentially contributing to $PM_{2.5}$ concentrations in the atmosphere which are direct $PM_{2.5}$ emissions, SO_2, NO_X, VOC and ammonia (70 FR 65998). While EPA recognized that SO_2, NO_X, VOC and ammonia are precursors of $PM_{2.5}$ in the scientific sense because these pollutants can contribute to the formation of $PM_{2.5}$ in the ambient air, the degree to which these individual precursors and pollutants contribute to $PM_{2.5}$ formation in a given location is complex and variable. For ammonia, there is uncertainty about emissions inventories and the potential efficacy of control measures from location to location. For VOC, the role and relationship of gaseous organic material in the formation of organic PM remains complex and further research and technical tools are needed to better characterize emissions inventories for specific VOC compounds. In light of these factors, EPA proposed in its rule to implement the $PM_{2.5}$ NAAQS that States are not required to address VOC's or ammonia as $PM_{2.5}$ nonattainment plan precursors, unless the State or EPA makes a finding that VOC's or ammonia significantly contribute to a $PM_{2.5}$ nonattainment problem in the State or to other downwind air quality concerns. For NO_X EPA proposed that States are required to address NO_X under all aspects of the program, unless the State and EPA makes a finding that NO_X emissions from sources in the State do not significantly contribute to the $PM_{2.5}$ problem in a given area or to other downwind air quality concerns. For SO_2 EPA proposed that States are required to address SO_2 as a $PM_{2.5}$ nonattainment precursor. Therefore, for the purposes of general conformity applicability, VOC's and ammonia emissions are only considered $PM_{2.5}$ precursors in nonattainment areas where either a State or EPA has made a finding that they significantly contribute to the $PM_{2.5}$ problem in a given area or to other downwind air quality concerns; NO_X emissions are considered a $PM_{2.5}$ precursor unless the State and EPA makes a finding that NO_X emissions from sources in the State do not significantly contribute to the $PM_{2.5}$ problem in a given area or to other downwind air quality concerns; and SO_2 are always considered a $PM_{2.5}$ precursor. The EPA's proposed implementation strategy for the $PM_{2.5}$ standard included options for addressing $PM_{2.5}$ precursors in other air quality planning programs (*e.g.*, New Source Review for stationary sources). The public has had the opportunity to comment on these options during the comment period for that rulemaking. The EPA will consider those comments in its final $PM_{2.5}$ implementation rule. Today's final rule should not be interpreted as prejudging our decision on the $PM_{2.5}$ precursor requirements that will be finalized in the $PM_{2.5}$ implementation rulemaking. Our final rule for the implementation proposal will reflect how $PM_{2.5}$ precursors should

best be considered in those air quality planning programs and the comments received on that proposal. While EPA's final decisions on $PM_{2.5}$ precursors must be legally consistent, EPA could take differing positions with respect to various precursors in other programs (*e.g.*, New Source Review for stationary sources) as appropriate to the programmatic needs, technical information, legal requirements and pollution sources relevant to the differing programs.

The EPA notes, however, that if in the future we change our legal rationale or technical basis for considering $PM_{2.5}$ precursors among the various air quality planning programs from the positions currently under consideration as a result of comments received on the $PM_{2.5}$ implementation strategy proposal, such changes could necessitate a subsequent revision to the general conformity rule. In the case where an amendment to the General Conformity regulations is needed to reflect an alternative approach to considering $PM_{2.5}$ precursors, EPA would conduct such a revision through full public notice and comment rulemaking.

III. Response to Comments

The proposed rule published on April 5, 2006 solicited comments on establishing 100 tons per year of $PM_{2.5}$ direct or precursor emissions as the *de minimis* threshold for General Conformity applicability. Three comments were received, one in support of the proposed *de minimis* level, and two other comments suggesting lower levels. Responses to these comments follow.

A. De Minimis Level for Prescribed Burning

1. Comment

A commenter stated that "leaving out prescribed burning with its release of fine particulate matter and mercury is absolutely wrong." In addition, the commenter stated that he does not understand why EPA does not address the way certain Federal agencies, like the National Park Service, engage in prescribed burning on Federal lands and that EPA needs to address this "wrongdoing."

2. Response

To the extent that this comment is stating that prescribed burning should be regulated as an activity by the General Conformity rule, such comment is beyond the scope of this action since this rulemaking does not concern any substantive requirements for any Federal activities nor does it address ways in which a Federal activity such as prescribed burning can be found to conform to an applicable implementation plan. EPA is currently considering whether to promulgate proposed revisions to the General conformity rule, including ways in which activities can be found to conform, and if such a rule were proposed in the future, EPA encourages the commenter to submit comments at that time. To the extent that the commenter intended his comment to mean that EPA should not promulgate a *de minimis* level for prescribed burning activities, EPA notes that the General Conformity regulations are not structured to provide differing *de minimis* levels for different types of Federal activities. The EPA has proposed uniform *de minimis* emission rates for all Federal activities independent of their source because pollution is pollution, whether caused by prescribed burning or any other Federal activity. In other words, all of the *de minimis* levels are based on levels of pollution impact from all types of federal activities, whatever they may be. Prescribed burning activities do not produce any new type of pollution which would necessitate a different type of *de minimis* level or no level at all. The EPA believes that the General Conformity rule's *de minimis* thresholds should provide for the uniform treatment of air pollution emissions regardless of their source.

B. De Minimis Level for Direct $PM_{2.5}$ Emissions

1. Comment

One commenter suggested lower *de minimis* levels for directly emitted $PM_{2.5}$. The commenter proposed that the *de minimis* level for emissions of direct $PM_{2.5}$ should be set significantly lower than 100 tons per year—in the range of 25–50 tons per year in areas that are likely to attain the $PM_{2.5}$ NAAQS within 5 years, and a level of 10–25 tons per year in areas that are likely to take more than five years to achieve the NAAQS.

2. Response

The intent of the *de minimis* levels is to assure that the General Conformity rule covers only major Federal actions that are major sources of emission. The Act in section 302(j) defines a major source as meaning "any stationary facility or source of air pollutants which directly emits, or has the potential to emit, one hundred tons per year or more of any air pollutant (including any major emitting facility or source of fugitive emissions of any such pollutant, as determined by rule by the Administrator)." This definition provides a Congressional threshold for a major source. As discussed in the preamble of the proposal, EPA is using the same methodology to set the *de minimis* level for $PM_{2.5}$ as it did for the other NAAQS pollutants (with the exception of lead). This methodology is based on a level found in statute as defining major stationary sources of air pollution. The commenter suggests a sliding scale for the direct $PM_{2.5}$ *de minimis* level based on the severity of the attainment problem which is akin to a classification scheme. A classification scheme was constructed for PM_{10} nonattainment areas and the Act provides for a lower major sources definition threshold of 70 tons per year in section 189(b)(3) for PM_{10} areas classified as serious. The EPA designated all $PM_{2.5}$ nonattainment areas under subpart 1 of the Act. Subpart 1 does not mandate a classification scheme for nonattainment areas based on the severity of an area's air quality problem. Therefore, there is no basis for EPA to determine in this rulemaking what would constitute a serious $PM_{2.5}$ nonattainment problem and set different *de minimis* levels based on seriousness of the air quality problem. Absent a classification scheme for $PM_{2.5}$, EPA does not believe that basing the *de minimis* levels on differing air quality levels is warranted at this time. If a different classification approach is taken in the $PM_{2.5}$ implementation rule, we may consider addressing this issue differently.

IV. Summary of the Action

The EPA is revising the tables in subparagraphs (b)(1) and (b)(2) of 40 CFR 51.853 and 40 CFR 93.153 by adding the *de minimis* emission levels for $PM_{2.5}$. The EPA is establishing the proposed 100 tons per year as the *de minimis* emission level for direct $PM_{2.5}$ and each of its precursors as defined in revised section 91.152. The precursors for the purposes of general conformity applicability are, VOC's and ammonia emissions are only considered $PM_{2.5}$ precursors in nonattainment areas where either a State or EPA has made a finding that they significantly contribute to the $PM_{2.5}$ problem in a given area or to other downwind air quality concerns; NO_X emissions are considered a $PM_{2.5}$ precursor unless the State and EPA makes a finding that NO_X emissions from sources in the State do not significantly contribute to the $PM_{2.5}$ problem in a given area or to other downwind air quality concerns; and SO_2 emissions are always considered a $PM_{2.5}$ precursor. Since EPA did not propose any classifications for the $PM_{2.5}$ nonattainment areas, EPA is not

establishing $PM_{2.5}$ *de minimis* emission levels for higher classified nonattainment areas. This action will maintain the consistency between the conformity *de minimis* emission levels and the size of a major stationary source under the Act (section 302(j) and the NSR program (70 FR 65984). These levels are also consistent with the levels proposed for VOC and NO_X emissions in subpart 1 areas under the 8-hour ozone implementation strategy (68 FR 32843).

V. Statutory and Executive Order Reviews

A. Executive Order 12866: Regulatory Planning and Review

Under Executive Order 12866 (58 FR 51735, October 4, 1993), the Agency must determine whether the regulatory action is "significant" and, therefore, subject to Office of Management and Budget (OMB) review and the requirements of the Executive Order. The Order defines "significant regulatory action" as one that is likely to result in a regulation 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, it has been determined that these revisions to the regulations are considered a "significant regulatory action" because although they do not impose any additional requirements on other Federal agencies, they do affect the process Federal agencies use to determine applicability of existing requirements. As such, this action was submitted to OMB for review.

B. Paperwork Reduction Act

This action does not directly impose an information collection burden under the provisions of the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.*, on non-Federal entities. The General Conformity Regulations require Federal agencies to determine that their actions conform to the SIPs or TIPs. However, depending upon how Federal agencies implement the regulations, non-Federal entities seeking funding or approval from those Federal agencies may be required to submit information to that agency.

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 in 40 CFR are listed in 40 CFR part 9.

C. Regulatory Flexibility Act

The Regulatory Flexibility Act generally requires an Agency to prepare a regulatory flexibility analysis of any regulation subject to notice and comment rulemaking requirements under the Administrative Procedures Act or any other statute unless the Agency certifies 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 action on small entities, small entity is defined as:

1. A small business that is a small industrial entity as defined in the U.S. Small Business Administration (SBA) size standards. (See 13 CFR 121.201);

2. A 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 regulation revisions, I certify that this action will not have a significant economic impact on a substantial number of small entities. Today's action will not impose any requirements on small entities. The General Conformity Regulations require Federal agencies to conform to the appropriate State, Tribal or Federal implementation plan for attaining clean air.

D. 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 regulations 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 regulation 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 to adopt the least costly, most cost-effective or least burdensome alternative that achieves the objectives of the regulation. 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 regulations 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 actions with significant Federal intergovernmental mandates, and informing, educating, and advising small governments on compliance with the regulatory requirements.

The EPA has determined that these revisions to the regulations do 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. Thus, today's regulation revisions are not subject to the requirements of sections 202 and 205 of the UMRA.

The EPA has determined that these regulation revisions contain no

regulatory requirements that may significantly or uniquely affect small governments, including Tribal governments.

E. Executive Order 13132: Federalism

Executive Order 13132, entitled "Federalism" (64 FR 43255; August 10, 1999), requires EPA to develop an accountable process to ensure "meaningful and timely input by State and local officials in the development of regulatory policies that have Federalism implications." "Policies that have Federalism implications" is defined in the Executive Order to include regulations that have "substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government."

This action does not have Federalism implications. The regulations 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. Previously, EPA determined the costs to States to implement the General Conformity Regulations to be less than $100,000 per year. Thus, Executive Order 13132 does not apply to these regulation revisions.

F. 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 9, 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." This determination is stated below.

These regulation revisions do not have Tribal implications as defined by Executive Order 13175. They do not have a substantial direct effect on one or more Indian Tribes, since no Tribe has to demonstrate conformity for their actions. Furthermore, these regulation revisions do not affect the relationship or distribution of power and responsibilities between the Federal government and Indian Tribes. The CAA and the Tribal Air Rule establish the relationship of the Federal government and Tribes in developing plans to attain the NAAQS, and these revisions to the regulations do nothing to modify that relationship. Because these regulation revisions do not have Tribal implications, Executive Order 13175 does not apply.

G. Executive Order 13045: Protection of Children From Environmental Health and Safety Risks

Executive Order 13045: "Protection of Children from Environmental Health 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 EPA has reason to believe may have disproportionate effect on children. If the regulatory action meets both criteria, the Agency must 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 the Agency.

These revisions to the regulations are not subject to Executive Order 13045 because they are not economically significant as defined in Executive Order 12866 and because EPA does not have reason to believe the environmental health or safety risk addressed by the General Conformity Regulations present a disproportionate risk to children. The General Conformity Regulations ensure that Federal agencies comply with the SIP, TIP or FIP for attaining and maintaining the NAAQS.

H. Executive Order 13211: Actions That Significantly Affect Energy Supply, Distribution, or Use

These revisions to the regulations are not considered a "significant energy action" as defined in Executive Order 13211, "Actions That Significantly Affect Energy Supply, Distribution, or Use," (66 FR 28355, May 22, 2001) because it is not likely to have a significant adverse effect on the supply, distribution, or use of energy.

I. National Technology Transfer Advancement Act

Section 12(d) of the National Technology Transfer Advancement Act of 1995 (NTTAA), Public Law 104–113, section 12(d) (15 U.S.C. 272 note) directs EPA to use voluntary consensus standards (VCS) in its regulatory activities unless to do so would be inconsistent with applicable law or otherwise impractical. The VCS are technical standards (*e.g.*, materials specifications, test methods, sampling procedures, and business practices) that are developed or adopted by VCS bodies. The NTTAA directs EPA to provide Congress, through OMB, explanations when the Agency decides not to use available and applicable VCS.

This revision to the regulations does not involve technical standards. Therefore, EPA is not considering the use of any VCS.

However, EPA will encourage the Federal agencies to consider the use of such standards, where appropriate, in the implementation of the General Conformity Regulations.

J. Executive Order 12898: Federal Actions To Address Environmental Justice in Minority Populations and Low-Income Populations

Executive Order 12898 requires that each Federal agency make achieving environmental justice part of its mission by identifying and addressing, as appropriate, disproportionately high and adverse human health environmental effects of its programs, policies, and activities on minorities and low-income populations.

The EPA believes that these revisions to the regulations should not raise any environmental justice issues. The revisions to the regulations would, if promulgated revise procedures for other Federal agencies to follow. They do not disproportionately affect the health or safety of minority or low income populations. The EPA encourages other agencies to carefully consider and address environmental justice in their implementation of their evaluations and conformity determinations.

K. 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. It requires that a Major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a "major rule" as defined by 5 U.S.C. 804(2). Therefore this rule will be effective July 17, 2006.

List of Subjects

40 CFR Part 51

Environmental protection, Administrative practice and procedures, Air pollution control, Carbon monoxide, Intergovernmental relations, Lead, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur dioxide, Volatile organic compounds.

40 CFR Part 93

Environmental protection, Administrative practice and procedures, Air pollution control, Carbon monoxide, Intergovernmental relations, Lead, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur dioxide, Volatile organic compounds.

Dated: July 11, 2006.

Stephen L. Johnson,

Administrator.

■ For the reasons stated in the preamble, title 40, chapter I of the Code of Federal Regulations is proposed to be amended as follows:

PART 51—[AMENDED]

■ 1. The authority citation for part 51 continues to read as follows:

Authority: 23 U.S.C. 101; 42 U.S.C. 7401–7671q.

Subpart W—[Amended]

■ 2. Section 51.852 is amended by removing the "; and" at the end of paragraph (1) and adding a period in its place and adding paragraph (3) to definition of "Precursors of criteria pollutant" to read as follows:

§ 51.852 Definitions.

* * * * *

Precursors of a criteria pollutant are:

* * * * *

(3) For $PM_{2.5}$:

(i) Sulfur dioxide (SO_2) in all $PM_{2.5}$ nonattainment and maintenance areas,

(ii) Nitrogen oxides in all $PM_{2.5}$ nonattainment and maintenance areas unless both the State and EPA determine that it is not a significant precursor, and

(iii) Volatile organic compounds (VOC) and ammonia (NH_3) only in $PM_{2.5}$ nonattainment or maintenance areas where either the State or EPA determines that they are significant precursors.

* * * * *

■ 3. Section 51.853 is amended by revising paragraph (b) to read as follows:

§ 51.853 Applicability.

* * * * *

(b) For Federal actions not covered by paragraph (a) of this section, a conformity determination is required for each criteria pollutant or precursor where the total of direct and indirect emissions of the criteria pollutant or precursor in a nonattainment or maintenance area caused by a Federal action would equal or exceed any of the rates in paragraphs (b)(1) or (2) of this section.

(1) For purposes of paragraph (b) of this section, the following rates apply in nonattainment areas (NAA's):

	Tons/year
Ozone (VOC's or NO_X):	
Serious NAA's	50
Severe NAA's	25
Extreme NAA's	10
Other ozone NAA's outside an ozone transport region	100
Other ozone NAA's inside an ozone transport region:	
VOC	50
NO_X	100
Carbon monoxide: All NAA's	100
SO_2 or NO_2: All NAA's	100
PM–10:	
Moderate NAA's	100
Serious NAA's	70
$PM_{2.5}$:	
Direct emissions	100
SO_2	100
NO_X (unless determined not to be a significant precursor)	100
VOC or ammonia (if determined to be significant precursors)	100
Pb: All NAA's	25

(2) For purposes of paragraph (b) of this section, the following rates apply in maintenance areas:

	Tons/year
Ozone (NO_X, SO_2 or NO_2):	
All Maintenance Areas	100
Ozone (VOC's):	
Maintenance areas inside an ozone transport region	50
Maintenance areas outside an ozone transport region	100
Carbon monoxide: All Maintenance Areas	100
PM–10: All Maintenance Areas	100
$PM_{2.5}$:	
Direct emissions	100
SO_2	100
NO_X (unless determined not to be a significant precursor)	100
VOC or ammonia (if determined to be significant precursors)	100
Pb: All Maintenance Areas	25

* * * * *

PART 93—[AMENDED]

■ 4. The authority citation for part 93 continues to read as follows:

Authority: 21 U.S.C. 101; 42 U.S.C. 7401–7671q.

Subpart B—[Amended]

■ 5. Section 93.152 is amended by removing the "; and" at the end of paragraph (1) and adding a period in its place and adding paragraph (3) to definition of "Precursors of criteria pollutant" to read as follows:

§ 93.152 Definitions.

* * * * *

Precursors of a criteria pollutant are:

* * * * *

(3) For $PM_{2.5}$:

(i) Sulfur dioxide (SO_2) in all $PM_{2.5}$ nonattainment and maintenance areas,

(ii) Nitrogen oxides in all $PM_{2.5}$ nonattainment and maintenance areas unless both the State and EPA determine that it is not a significant precursor, and

(iii) Volatile organic compounds (VOC) and ammonia (NH_3) only in $PM_{2.5}$ nonattainment or maintenance areas where either the State or EPA determines that they are significant precursors.

* * * * *

■ 6. Section 93.153 is amended by revising paragraph (b) to read as follows:

§ 93.153 Applicability.

* * * * *

(b) For Federal actions not covered by paragraph (a) of this section, a conformity determination is required for each criteria pollutant or precursor where the total of direct and indirect emissions of the criteria pollutant or precursor in a nonattainment or maintenance area caused by a Federal action would equal or exceed any of the rates in paragraphs (b)(1) or (2) of this section.

(1) For purposes of paragraph (b) of this section, the following rates apply in nonattainment areas (NAA's):

	Tons/year
Ozone (VOC's or NO_X):	
Serious NAA's	50
Severe NAA's	25
Extreme NAA's	10
Other ozone NAA's outside an ozone transport region	100
Other ozone NAA's inside an ozone transport region:	
VOC	50
NO_X	100
Carbon monoxide: All NAA's	100
SO_2 or NO_2: All NAA's	100
PM–10:	
Moderate NAA's	100
Serious NAA's	70
$PM_{2.5}$:	
Direct emissions	100
SO_2	100
NO_X (unless determined not to be a significant precursor)	100
VOC or ammonia (if determined to be significant precursors)	100
Pb: All NAA's	25

(2) For purposes of paragraph (b) of this section, the following rates apply in maintenance areas:

	Tons/year
Ozone (NO_X, SO_2 or NO_2):	
All Maintenance Areas	100
Ozone (VOC's):	
Maintenance areas inside an ozone transport region	50
Maintenance areas outside an ozone transport region	100
Carbon monoxide: All Maintenance Areas	100
PM–10: All Maintenance Areas	100
$PM_{2.5}$:	
Direct emissions	100
SO_2	100
NO_X (unless determined not to be a significant precursor)	100
VOC or ammonia (if determined to be significant precursors)	100
Pb: All Maintenance Areas	25

* * * * *

[FR Doc. E6–11241 Filed 7–14–06; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 174

[EPA–HQ–OPP–2006–0554; FRL–8076–5]

Bacillus Thuringiensis Cry1A.105 Protein and the Genetic Material Necessary for Its Production in Corn in or on All Corn Commodities; Temporary Exemption From the Requirement of a Tolerance

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This regulation establishes a temporary exemption from the requirement of a tolerance for residues of the *Bacillus Thuringiensis* Cry1A.105 protein and the genetic material necessary for its production in corn on field corn, sweet corn, and popcorn when applied/used as a plant-incorporated protectant. Monsanto Company submitted a petition to EPA under the Federal Food, Drug, and Cosmetic Act (FFDCA), as amended by the Food Quality Protection Act of 1996 (FQPA), requesting the temporary/tolerance exemption. This regulation eliminates the need to establish a maximum permissible level for residues of *Bacillus Thuringiensis* Cry1A.105 protein and the genetic material necessary for its production in corn. The temporary tolerance exemption will expire on June 30, 2009.

DATES: This regulation is effective July 17, 2006. Objections and requests for hearings must be received on or before September 15, 2006, and must be filed in accordance with the instructions provided in 40 CFR part 178 (see also Unit I.C. of the **SUPPLEMENTARY INFORMATION**).

ADDRESSES: EPA has established a docket for this action under docket identification (ID) number EPA–HQ–OPP–2006–0554. All documents in the docket are listed in the index for the docket. Although listed in the index, some information is not publicly available, e.g., Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available in the electronic docket at *http://www.regulations.gov*, or, if only available in hard copy, at the OPP Regulatory Public Docket in Rm. S-4400, One Potomac Yard (South Building), 2777 S. Crystal Drive, Arlington, VA. The Docket Facility is open from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The Docket telephone number is (703) 305–5805.

FOR FURTHER INFORMATION CONTACT: Mike Mendelsohn, Biopesticides and Poliution Prevention Division (7511P), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001; telephone number: (703) 308–8715; e-mail address: *mendelsohn.mike@epa.gov*.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

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

- Crop production (NAICS code 111).
- Animal production (NAICS code 112)

- Food manufacturing (NAICS code 311)
- Pesticide manufacturing (NAICS code 32532).

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

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

In addition to accessing an electronic copy of this **Federal Register** document through the electronic docket at *http://www.regulations.gov*, you may access this "**Federal Register**" document electronically through the EPA Internet under the "**Federal Register**" listings at *http://www.epa.gov/fedrgstr*. You may also access a frequently updated electronic version of 40 CFR part 174 through the Government Printing Office's pilot e-CFR site at *http://www.gpoaccess.gov/ecfr*.

C. Can I File an Objection or Hearing Request?

Under section 408(g) of the FFDCA, as amended by the FQPA, any person may file an objection to any aspect of this regulation and may also request a hearing on those objections. The EPA procedural regulations which govern the submission of objections and requests for hearings appear in 40 CFR part 178. You must file your objection or request a hearing on this regulation in accordance with the instructions provided in 40 CFR part 178. To ensure proper receipt by EPA, you must identify docket ID number EPA–HQ–OPP–2006–0554 in the subject line on the first page of your submission. All requests must be in writing, and must be mailed or delivered to the Hearing Clerk on or before September 15, 2006.

In addition to filing an objection or hearing request with the Hearing Clerk as described in 40 CFR part 178, please submit a copy of the filing that does not contain any CBI for inclusion in the public docket that is described in **ADDRESSES.** Information not marked confidential pursuant to 40 CFR part 2 may be disclosed publicly by EPA without prior notice. Submit your copies, identified by docket ID number EPA–HQ–OPP–2006–0554, by one of the following methods.

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

II. Background and Statutory Findings

In the **Federal Register** of May 26, 2006 (71 FR 30401) (FRL–8066–5), EPA issued a notice pursuant to section 408(d)(3) of the FFDCA, 21 U.S.C. 346a(d)(3), announcing the filing of a pesticide tolerance petition (PP 5G6940) by Monsanto Company, 800 North Lindbergh Blvd., St. Louis, MO 63167. The petition requested that 40 CFR part 174 be amended by establishing a temporary exemption from the requirement of a tolerance for residues of *Bacillus thuringiensis* Cry1A.105 protein and the genetic material necessary for its production in corn. This notice included a summary of the petition prepared by the petitioner Monsanto Company. One comment was received in response to the notice of filing. The commenter objected to an exemption from the requirement of a tolerance, stated that she does not favor genetically engineered corn, and stated that such corn should be labeled. The commentor also expressed concern about the mechanics of submitting comments via the www.regulations.gov site for the notice of filing. The Agency understands the commenter's concerns and recognizes that some individuals believe that genetically modified crops and food should be banned completely. Pursuant to its authority under the FFDCA, EPA conducted a comprehensive assessment of the Cry1A.105 protein and the genetic material necessary for its production in corn, including a review of acute oral toxicity data on the Cry1A.105 protein, amino acid sequence comparisons to known toxins and allergens, as well as data demonstrating that the Cry1A.105 protein is rapidly degraded by gastric fluid *in vitro*, is not glycosylated, and is present in low levels in corn tissue, and as concluded that there is a reasonable certainty that no harm will result from dietary exposure to this protein as expressed in genetically modified corn. Thus, under the standard in FFDCA section 408(b)(2), a tolerance exemption is appropriate. The labeling of food is under the jurisdiction of the Food and Drug Administration (FDA). When commenting on notices of filing, commentors should either choose "Notices" or "All Document Types" in the Document Type box.

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

EPA performs a number of analyses to determine the risks from aggregate exposure to pesticide residues. First, EPA determines the toxicity of pesticides. Second, EPA examines exposure to the pesticide through food, drinking water, and through other exposures that occur as a result of pesticide use in residential settings.

III. Toxicological Profile

Consistent with section 408(b)(2)(D) of the FFDCA, EPA has reviewed the available scientific data and other relevant information in support of this action and considered its validity, completeness and reliability and the relationship of this information to

human risk. EPA has also considered available information concerning the variability of the sensitivities of major identifiable subgroups of consumers, including infants and children.

Monsanto has submitted acute oral toxicity data demonstrating the lack of mammalian toxicity at high levels of exposure to the pure Cry1A.105 protein. These data demonstrate the safety of the product at a level well above maximum possible exposure levels that are reasonably anticipated in the crop. Basing this conclusion on acute oral toxicity data without requiring further toxicity testing and residue data is similar to the Agency position regarding toxicity testing and the requirement of residue data for the microbial *Bacillus thuringiensis* products from which this plant-incorporated protectant was derived (See 40 CFR Sec. 158.740(b)(2)(i)). For microbial products, further toxicity testing and residue data are triggered by significant adverse acute effects in studies such as the mouse oral toxicity study, to verify the observed adverse effects and clarify the source of these effects (Tiers II and III).

An acute oral toxicity study in mice (MRID 46694603) indicated that Cry1A.105 is non-toxic to humans. Cry1A.105 produced from microbial culture was dosed by gavage as two doses separated by 4 hours (±20 minutes) to 10 females and 10 males (2,072 milligrams/kilogram (mg/kg) body weight). Two control groups were also included in the study: A bovine serum albumin protein control, and a vehicle control. One male in the test protein group was moribund and sacrificed on day 1 due to a mechanical dosing error; this death was not attributed to the test material. All other mice survived the study. There were no significant differences in body weight or body weight change among the three groups during the study, and no treatment-related gross pathological findings were observed. The oral LD50 for males, females, and combined mice was greater than 2,072 mg/kg.

When proteins are toxic, they are known to act via acute mechanisms and at very low dose levels (Sjoblad, Roy D., *et al.*, "Toxicological Considerations for Protein Components of Biological Pesticide Products," Regulatory Toxicology and Pharmacology 15, 3–9 (1992)). Therefore, since no acute effects were shown to be caused by Cry1A.105, even at relatively high dose levels, the Cry1A.105 protein is not considered toxic. Further, amino acid sequence comparisons showed no similarities between the Cry1A.105 and known toxic proteins in protein databases that would raise a safety concern.

Since Cry1A.105 is a protein, allergenic potential was also considered. Currently, no definitive tests for determining the allergenic potential of novel proteins exist. Therefore, EPA uses a weight-of-evidence approach where the following factors are considered: source of the trait; amino acid sequence similarity with known allergens; prevalence in food; and biochemical properties of the protein, including *in vitro* digestibility in simulated gastric fluid (SGF) and glycosylation. Current scientific knowledge suggests that common food allergens tend to be resistant to degradation by heat, acid, and proteases, may be glycosylated, and can be present at high concentrations in the food.

1. *Source of the trait. Bacillus thuringiensis* is not considered to be a source of allergenic proteins.

2. *Amino acid sequence.* A comparison of the amino acid sequence of Cry1A.105 with known allergens showed no overall sequence similarity or identity at the level of eight contiguous amino acid residues.

3. *Prevalence in food.* Expression level analysis indicated that the protein is present at relatively low levels in corn: Approximately 3 µg/g in grain on a dry weight basis. Thus, the expression has been shown to be in the parts per million range is much lower than the amounts of allergen protein found in commonly allergenic foods. In those foods, allergens are major protein components such as seed storage globulin proteins in nuts and legumes, meat associated proteins like tropomyosin in fish and shellfish, ovalbumin and ovomucoid in egg white and lactalbumin and casein in milk. In these cases, the allergens can be from 10% to 50% of the total protein found whereas the plant-incorporated protectant (PIP) that is the subject of this tolerance determination is found in the parts per million range.

4. *Digestibility.* The Cry1A.105 protein was digested within 30 seconds in simulated gastric fluid containing pepsin.

5. *Glycosylation.* Cry1A.105 expressed in corn was shown to have not to be glycosylated

6. *Conclusion.* Considering all of the available information, EPA has concluded that the potential for Cry1A.105 to be a food allergen is minimal.

IV. Aggregate Exposures

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

The Agency has considered available information on the aggregate exposure levels of consumers (and major identifiable subgroups of consumers) to the pesticide chemical residue and to other related substances. These considerations include dietary exposure under the tolerance exemption and all other tolerances or exemptions in effect for the plant-incorporated protectants chemical residue, and exposure from non-occupational sources. Exposure via the skin or inhalation is not likely since the plant- incorporated protectant is contained within plant cells, which essentially eliminates these exposure routes or reduces these exposure routes to negligible. In addition, even if exposure can occur through inhalation, the potential for Cry1A.105 to be an allergen is low, as discussed above. Although the allergenicity assessment focuses on potential to be a food allergen, the data also indicate a low potential for Cry1A.105 to be an inhalation allergen. Exposure via residential or lawn use to infants and children is also not expected because the use sites for the Cry1A.105 protein is agricultural. Oral exposure, at very low levels, may occur from ingestion of processed corn products and, theoretically, drinking water. However oral toxicity testing showed no adverse effects. Furthermore, the expression of the Cry1A.105 protein in corn kernels has been shown to be in the parts per million range, which makes the expected dietary exposure several orders of magnitude lower than the amount of Cry1A.105 shown to have no toxicity. Therefore, even if negligible aggregate exposure should occur, the Agency concludes that such exposure would result in no harm due to the lack of mammalian toxicity and low potential for allergenicity demonstrated for the Cry1A.105 protein.

V. Cumulative Effects

Pursuant to FFDCA section 408(b)(2)(D)(v), EPA has considered available information on the cumulative effects of such residues and other substances that have a common mechanism of toxicity. These considerations included the cumulative effects on infants and children of such residues and other substances with a common mechanism of toxicity. Because there is no indication of

mammalian toxicity from the plant-incorporated protectant, we conclude that there are no cumulative effects for the Cry1A.105 protein.

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

A. Toxicity and Allergenicity Conclusions

The data submitted and cited regarding potential health effects for the Cry1A.105 protein includes the characterization of the expressed Cry1A.105 protein in corn, as well as the acute oral toxicity study, amino acid sequence comparisons to known allergens and toxins, and *in vitro* digestibility of the protein. The results of these studies were used to evaluate human risk, and the validity, completeness, and reliability of the available data from the studies were also considered.

Adequate information was submitted to show that the Cry1A.105 test material derived from microbial culture was biochemically and functionally equivalent to the protein produced by the plant-incorporated protectant ingredient in corn. Microbially produced protein was used in the safety studies so that sufficient material for testing was available.

The acute oral toxicity data submitted support the prediction that the Cry1A.105 protein would be non-toxic to humans. As mentioned above, when proteins are toxic, they are known to act via acute mechanisms and at very low dose levels (Sjoblad, Roy D., *et al.*, "Toxicological Considerations for Protein Components of Biological Pesticide Products," Regulatory Toxicology and Pharmacology 15, 3–9 (1992)). Since no treatment-related adverse effects were shown to be caused by the Cry1A.105 protein, even at relatively high dose levels, the Cry1A.105 protein is not considered toxic. Basing this conclusion on acute oral toxicity data without requiring further toxicity testing and residue data is similar to the Agency position regarding toxicity and the requirement of residue data for the microbial Bacillus thuringiensis products from which this plant-incorporated protectant was derived (See 40 CFR 158.740(b)(2)(i)). For microbial products, further toxicity testing and residue data are triggered when significant adverse effects are seen in studies such as the mouse oral toxicity study. Further studies verify the observed adverse effects and clarify the source of these effects (Tiers II and III).

Residue chemistry data were not required for a human health effects assessment of the subject plant-incorporated protectant ingredients because of the lack of mammalian toxicity. However, data submitted demonstrated low levels of the Cry1A.105 in corn tissues.

Since Cry1A.105 is a protein, potential allergenicity is also considered as part of the toxicity assessment. Considering all of the available information (1) Cry1A.105 originates from a non-allergenic source; (2) Cry1A.105 has no sequence similarities with known allergens; (3) Cry1A.105 is not glycosylated; (4) Cry1A.105 will only be present at low levels in food; and (5) Cry1A.105 is rapidly digested in simulated gastric fluid; EPA has concluded that the potential for Cry1A.105 to be a food allergen is minimal.

Neither available information concerning the dietary consumption patterns of consumers (and major identifiable subgroups of consumers including infants and children) nor safety factors that are generally recognized as appropriate for the use of animal experimentation data were evaluated. The lack of mammalian toxicity at high levels of exposure to the Cry1A.105 protein, as well as the minimal potential to be a food allergen, demonstrate the safety of the product at levels well above possible maximum exposure levels anticipated in the crop.

The genetic material necessary for the production of the plant-incorporated protectant active ingredient include the nucleic acids (DNA, RNA) that encode these proteins and regulatory regions. The genetic material (DNA, RNA), necessary for the production of the Cry1A.105 protein has been exempted under the blanket exemption for all nucleic acids (40 CFR 174.475).

B. Infants and Children Risk Conclusions

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

In this instance, based on all the available information, the Agency finds that there is no toxicity for the Cry1A.105 protein and the genetic material necessary for its production. Thus, there are no threshold effects of concern and, as a result, the provision requiring an additional margin of safety does not apply. Further, the considerations of consumption patterns, special susceptibility, and cumulative effects do not apply.

C. Overall Safety Conclusion

There is a reasonable certainty that no harm will result from aggregate exposure to the U.S. population, including infants and children, to the Cry1A.105 protein and the genetic material necessary for its production. This includes all anticipated dietary exposures and all other exposures for which there is reliable information. The Agency has arrived at this conclusion because, as discussed above, no toxicity to mammals has been observed, nor any indication of allergenicity potential for the plant-incorporated protectant.

VII. Other Considerations

A. Endocrine Disruptors

The pesticidal active ingredient is a protein, derived from a source that is not known to exert an influence on the endocrine system. Therefore, the Agency is not requiring information on the endocrine effects of this plant-incorporated protectant at this time.

B. Analytical Method(s)

A short description of an enzyme-linked immunosorbent assay for the detection and quantification of Cry1A.105 in corn tissue has been submitted.

C. Codex Maximum Residue Level

No Codex maximum residue level exists for the plant-incorporated protectant *Bacillus thuringiensis* Cry1A.105 protein and the genetic material necessary for its production in corn.

VIII. Statutory and Executive Order Reviews

This final rule establishes an exemption from the tolerance requirement under section 408(d) of the FFDCA in response to a petition submitted to the Agency. The Office of Management and Budget (OMB) has exempted these types of actions from review under Executive Order 12866, entitled *Regulatory Planning and Review* (58 FR 51735, October 4, 1993). Because this rule has been exempted from review under Executive Order 12866 due to its lack of significance,

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

IX. 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 174

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

Dated: June 29, 2006.

James Jones,

Director, Office of Pesticide Programs.

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

PART 174—[AMENDED]

■ 1. The authority citation for part 174 continues to read as follows:

Authority: 7 U.S.C. 136-136y; 21 U.S.C. 346a and 371.

■ 2. Section 174.453 is added to subpart W to read as follows:

§ 174.453 Bacilius Thuringiensis Cry1A.105 Protein and the Genetic Material Necessary for Its Production in Corn.

Bacillus thuringiensis Cry1A.105 protein and the genetic material necessary for its production in corn is exempt from the requirement of a tolerance when used as plant-incorporated protectant in the food and feed commodities of field corn, sweet corn and popcorn. Genetic material necessary for its production means the genetic material which comprise genetic material encoding the Cry1A.105 protein and its regulatory regions. Regulatory regions are the genetic material, such as promoters, terminators, and enhancers, that control the expression of the genetic material encoding the Cry1A.105 protein. This temporary exemption from the requirement of a tolerance will permit the use of the food commodities in this paragraph when treated in accordance with the provisions of the experimental use permit 524–EUP–97 which is being issued under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended (7 U.S.C. 136). This temporary exemption from the requirement of a tolerance expires and is revoked June 30, 2009; however, if the experimental use permit is revoked, or if any experience with or scientific data on this pesticide indicate that the tolerance is not safe, this temporary exemption from the requirement of a tolerance may be revoked at any time.

[FR Doc. E6–11245 Filed 7–14–06; 8:45 am]

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 174

[EPA–HQ–OPP–2006–0553; FRL–8076–6]

Bacillus Thuringiensis Cry2Ab2 Protein and the Genetic Material Necessary for Its Production in Corn in or on All Corn Commodities; Temporary Exemption From the Requirement of a Tolerance

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This regulation establishes a temporary exemption from the

requirement of a tolerance for residues of the *Bacillus Thuringiensis* Cry2Ab2 protein and the genetic material necessary for its production in corn on field corn, sweet corn, and popcorn when applied/used as a plant-incorporated protectant. Monsanto Company submitted a petition to EPA under the Federal Food, Drug, and Cosmetic Act (FFDCA), as amended by the Food Quality Protection Act of 1996 (FQPA), requesting the temporary/tolerance exemption. This regulation eliminates the need to establish a maximum permissible level for residues of *Bacillus Thuringiensis* Cry2Ab2 protein and the genetic material necessary for its production in corn. The temporary tolerance exemption will expire on June 30, 2009.

DATES: This regulation is effective July 17, 2006. Objections and requests for hearings must be received on or before September 15, 2006, and must be filed in accordance with the instructions provided in 40 CFR part 178 (see also Unit I.C. of the **SUPPLEMENTARY INFORMATION**).

ADDRESSES: EPA has established a docket for this action under docket identification (ID) number EPA–HQ–OPP–2006–0553. All documents in the docket are listed in the index for the docket. Although listed in the index, some information is not publicly available, e.g., Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available in the electronic docket at *http://www.regulations.gov*, or, if only available in hard copy, at the OPP Regulatory Public Docket in Rm. S-4400, One Potomac Yard (South Building), 2777 S. Crystal Drive, Arlington, VA. The Docket Facility is open from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The Docket telephone number is (703) 305–5805.

FOR FURTHER INFORMATION CONTACT: Mike Mendelsohn, Biopesticides and Pollution Prevention Division (7511P), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001; telephone number: (703) 308–8715; e-mail address: *mendelsohn.mike@epa.gov*.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

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

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

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

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

In addition to accessing an electronic copy of this **Federal Register** document through the electronic docket at *http://www.regulations.gov*, you may access this "**Federal Register**" document electronically through the EPA Internet under the "**Federal Register** " listings at *http://www.epa.gov/fedrgstr*. You may also access a frequently updated electronic version of 40 CFR part 174 through the Government Printing Office's pilot e-CFR site at *http://www.gpoaccess.gov/ecfr*.

C. Can I File an Objection or Hearing Request?

Under section 408(g) of the FFDCA, as amended by the FQPA, any person may file an objection to any aspect of this regulation and may also request a hearing on those objections. The EPA procedural regulations which govern the submission of objections and requests for hearings appear in 40 CFR part 178. You must file your objection or request a hearing on this regulation in accordance with the instructions provided in 40 CFR part 178. To ensure proper receipt by EPA, you must identify docket ID number EPA–HQ–OPP–2006–0553 in the subject line on the first page of your submission. All requests must be in writing, and must be mailed or delivered to the Hearing Clerk on or before September 15, 2006.

In addition to filing an objection or hearing request with the Hearing Clerk as described in 40 CFR part 178, please submit a copy of the filing that does not contain any CBI for inclusion in the public docket that is described in **ADDRESSES**. Information not marked confidential pursuant to 40 CFR part 2 may be disclosed publicly by EPA without prior notice. Submit your copies, identified by docket ID number EPA–HQ–OPP–2006–0553, by one of the following methods.

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

II. Background and Statutory Findings

In the **Federal Register** of May 26, 2006 (Volume 71 FR 30400) (FRL–8066–7), EPA issued a notice pursuant to section 408(d)(3) of the FFDCA, 21 U.S.C. 346a(d)(3), announcing the filing of a pesticide tolerance petition (PP 5G7005) by Monsanto Company, 800 North Lindbergh Blvd., St. Louis, MO 63167. The petition requested that 40 CFR part 174 be amended by establishing a temporary exemption from the requirement of a tolerance for residues of *Bacillus thuringiensis* Cry2Ab2 protein and the genetic material necessary for its production in corn. This notice included a summary of the petition prepared by the petitioner Monsanto Company. One comment was received in response to the notice of filing. The commenter objected to an exemption from the requirement of a tolerance, stated that she does not favor genetically engineered corn, and stated that such corn should be labeled. The Agency understands the commenter's concerns and recognizes that some individuals believe that genetically modified crops and food should be banned completely. Pursuant to its authority under the FFDCA, EPA conducted a comprehensive assessment of the Cry2Ab2 protein and the genetic material necessary for its production in

corn, including a review of acute oral toxicity data on the Cry2Ab2 protein, amino acid sequence comparisons to known toxins and allergens, as well as data demonstrating that the Cry2Ab2 protein is rapidly degraded by gastric fluid *in vitro*, is not glycosylated, and is present in low levels in corn tissue, and has concluded that there is a reasonable certainty that no harm will result from dietary exposure to this protein as expressed in genetically modified corn. Thus, under the standard in FFDCA section 408(b)(2), a tolerance exemption is appropriate. The labeling of food is under the jurisdiction of the Food and Drug Administration (FDA).

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

EPA performs a number of analyses to determine the risks from aggregate exposure to pesticide residues. First, EPA determines the toxicity of pesticides. Second, EPA examines exposure to the pesticide through food, drinking water, and through other exposures that occur as a result of pesticide use in residential settings.

III. Toxicological Profile

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

Monsanto has submitted acute oral toxicity data demonstrating the lack of mammalian toxicity at high levels of exposure to the pure Cry2Ab2 protein. These data demonstrate the safety of the product at a level well above maximum possible exposure levels that are reasonably anticipated in the crop. Basing this conclusion on acute oral toxicity data without requiring further toxicity testing and residue data is similar to the Agency position regarding toxicity testing and the requirement of residue data for the microbial *Bacillus thuringiensis* products from which this plant-incorporated protectant was derived (See 40 CFR Sec. 158.740(b)(2)(i)). For microbial products, further toxicity testing and residue data are triggered by significant adverse acute effects in studies such as the mouse oral toxicity study, to verify the observed adverse effects and clarify the source of these effects (Tiers II and III).

An acute oral toxicity study in mice (MRID 44966602) indicated that Cry2Ab2 is non-toxic to humans. Three groups of ten male and ten female mice were dosed by oral gavage with 30, 300, or 1,000 milligrams/kilogram (mg/kg) bodyweight of microbially-produced Cry2Ab2 protein. Two negative control groups were also included in the study: Bovine serum albumin protein control, and a vehicle control (purified water). Two deaths occurred in control group animals; both deaths were attributed to gavage injury. All other mice survived the study. Several animals in both the control and test groups lost weight during the study, and several abnormalities were observed by gross necropsy in several animals in both the test and control groups. There were no significant differences between the test and control groups; therefore, the Cry2Ab2 protein does not appear to cause any significant adverse effects at an exposure level of up to 1,000 mg/kg bodyweight.

When proteins are toxic, they are known to act via acute mechanisms and at very low dose levels (Sjoblad, Roy D., *et al.*, "Toxicological Considerations for Protein Components of Biological Pesticide Products," Regulatory Toxicology and Pharmacology 15, 3–9 (1992)). Therefore, since no acute effects were shown to be caused by Cry2Ab2, even at relatively high dose levels, the Cry2Ab2 protein is not considered toxic. Further, amino acid sequence comparisons showed no similarities between the Cry2Ab2 protein and known toxic proteins in protein databases that would raise a safety concern.

Since Cry2Ab2 is a protein, allergenic potential was also considered. Currently, no definitive tests for determining the allergenic potential of novel proteins exist. Therefore, EPA uses a weight-of-evidence approach where the following factors are considered: Source of the trait; amino acid sequence similarity with known allergens; prevalence in food; and biochemical properties of the protein, including *in vitro* digestibility in simulated gastric fluid (SGF) and glycosylation. Current scientific knowledge suggests that common food allergens tend to be resistant to degradation by heat, acid, and proteases, may be glycosylated, and can be present at high concentrations in the food.

1. *Source of the trait. Bacillus thuringiensis* is not considered to be a source of allergenic proteins.

2. *Amino acid sequence.* A comparison of the amino acid sequence of Cry2Ab2 with known allergens showed no significant overall sequence similarity or identity at the level of eight contiguous amino acid residues.

3. *Prevalence in food.* Expression level analysis indicated that the protein is present at relatively low levels in corn: Approximately 2.3 µg/g in grain on a dry weight basis. Thus, the expression has been shown to be in the parts per million range is much lower than the amounts of allergen protein found in commonly allergenic foods. In those foods, allergens are major protein components such as seed storage globulin proteins in nuts and legumes, meat associated proteins like tropomyosin in fish and shellfish, ovalbumin and ovomucoid in egg white and lactalbumin and casein in milk. In these cases, the allergens can be from 10% to 50% of the total protein found whereas the plant-incorporated protectant (PIP) that is the subject of this tolerance determination is found in the parts per million range.

4. *Digestibility.* The Cry2Ab2 protein was digested within 15 seconds in simulated gastric fluid containing pepsin.

5. *Glycosylation.* Cry2Ab2 expressed in corn was shown not to be glycosylated.

6. *Conclusion.* Considering all of the available information, EPA has concluded that the potential for Cry2Ab2 to be a food allergen is minimal.

IV. Aggregate Exposures

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

The Agency has considered available information on the aggregate exposure levels of consumers (and major identifiable subgroups of consumers) to the pesticide chemical residue and to other related substances. These considerations include dietary exposure under the tolerance exemption and all other tolerances or exemptions in effect for the plant-incorporated protectants chemical residue, and exposure from non-occupational sources. Exposure via the skin or inhalation is not likely since the plant- incorporated protectant is contained within plant cells, which essentially eliminates these exposure routes or reduces these exposure routes to negligible. In addition, even if exposure can occur through inhalation, the potential for Cry2Ab2 to be an allergen is low, as discussed above. Although the allergenicity assessment focuses on potential to be a food allergen, the data also indicate a low potential for Cry2Ab2 to be an inhalation allergen. Exposure via residential or lawn use to infants and children is also not expected because the use sites for the Cry2Ab2 protein is agricultural. Oral exposure, at very low levels, may occur from ingestion of processed corn products and, theoretically, drinking water. However, oral toxicity testing showed no adverse effects. Furthermore, the expression of the Cry2Ab2 protein in corn kernels has been shown to be in the parts per million range, which makes the expected dietary exposure several orders of magnitude lower than the amount of Cry2Ab2 shown to have no toxicity. Therefore, even if negligible aggregate exposure should occur, the Agency concludes that such exposure would result in no harm due to the lack of mammalian toxicity and low potential for allergenicity demonstrated for the Cry2Ab2 protein.

V. Cumulative Effects

Pursuant to FFDCA section 408(b)(2)(D)(v), EPA has considered available information on the cumulative effects of such residues and other substances that have a common mechanism of toxicity. These considerations included the cumulative effects on infants and children of such residues and other substances with a common mechanism of toxicity. Because there is no indication of mammalian toxicity from the plant-incorporated protectant, we conclude that there are no cumulative effects for the Cry2Ab2 protein.

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

A. Toxicity and Allergenicity Conclusions

The data submitted and cited regarding potential health effects for the Cry2Ab2 protein includes the characterization of the expressed Cry2Ab2 protein in corn, as well as the acute oral toxicity study, amino acid sequence comparisons to known allergens and toxins, and *in vitro* digestibility of the protein. The results of these studies were used to evaluate human risk, and the validity, completeness, and reliability of the available data from the studies were also considered.

Adequate information was submitted to show that the Cry2Ab2 test material derived from microbial culture was biochemically and functionally equivalent to the protein produced by the plant-incorporated protectant ingredient in corn. Microbially produced protein was used in the safety studies so that sufficient material for testing was available.

The acute oral toxicity data submitted support the prediction that the Cry2Ab2 protein would be non-toxic to humans. As mentioned above, when proteins are toxic, they are known to act via acute mechanisms and at very low dose levels (Sjoblad, Roy D., *et al.*, "Toxicological Considerations for Protein Components of Biological Pesticide Products," Regulatory Toxicology and Pharmacology 15, 3–9 (1992)). Since no treatment-related adverse effects were shown to be caused by the Cry2Ab2 protein, even at relatively high dose levels, the Cry2Ab2 protein is not considered toxic. Basing this conclusion on acute oral toxicity data without requiring further toxicity testing and residue data is similar to the Agency position regarding toxicity and the requirement of residue data for the microbial Bacillus thuringiensis products from which this plant-incorporated protectant was derived (See 40 CFR 158.740(b)(2)(i)). For microbial products, further toxicity testing and residue data are triggered when significant adverse effects are seen in studies such as the mouse oral toxicity study. Further studies verify the observed adverse effects and clarify the source of these effects (Tiers II and III).

Residue chemistry data were not required for a human health effects assessment of the subject plant-incorporated protectant ingredients because of the lack of mammalian toxicity. However, data submitted demonstrated low levels of the Cry1A.105 in corn tissues.

Since Cry2Ab2 is a protein, potential allergenicity is also considered as part of the toxicity assessment. Considering all of the available information (1) Cry2Ab2 originates from a non-allergenic source; (2) Cry2Ab2 has no sequence similarities with known allergens; (3) Cry2Ab2 is not glycosylated; (4) Cry2Ab2 will only be present at low levels in food; and (5) Cry2Ab2 is rapidly digested in simulated gastric fluid; EPA has concluded that the potential for Cry2Ab2 to be a food allergen is minimal.

Neither available information concerning the dietary consumption patterns of consumers (and major identifiable subgroups of consumers including infants and children) nor safety factors that are generally recognized as appropriate for the use of animal experimentation data were evaluated. The lack of mammalian toxicity at high levels of exposure to the Cry2Ab2 protein, as well as the minimal potential to be a food allergen, demonstrate the safety of the product at levels well above possible maximum exposure levels anticipated in the crop.

The genetic material necessary for the production of the plant-incorporated protectant active ingredient include the nucleic acids (DNA, RNA) that encode these proteins and regulatory regions. The genetic material (DNA, RNA), necessary for the production of the Cry2Ab2 protein has been exempted under the blanket exemption for all nucleic acids (40 CFR 174.475).

B. Infants and Children Risk Conclusions

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

EPA determines that a different margin of safety will be safe for infants and children.

In this instance, based on all the available information, the Agency finds no toxicity for the Cry2Ab2 protein and the genetic material necessary for its production. Thus, there are no threshold effects of concern and, as a result, the provision requiring an additional margin of safety does not apply. Further, the considerations of consumption patterns, special susceptibility, and cumulative effects do not apply.

C. Overall Safety Conclusion

There is a reasonable certainty that no harm will result from aggregate exposure to the U.S. population, including infants and children, to the Cry2Ab2 protein and the genetic material necessary for its production. This includes all anticipated dietary exposures and all other exposures for which there is reliable information. The Agency has arrived at this conclusion because, as discussed above, no toxicity to mammals has been observed, nor any indication of allergenicity potential for the plant-incorporated protectant.

VII. Other Considerations

A. Endocrine Disruptors

The pesticidal active ingredient is a protein, derived from a source that is not known to exert an influence on the endocrine system. Therefore, the Agency is not requiring information on the endocrine effects of this plant-incorporated protectant at this time.

B. Analytical Method(s)

A short description of an enzyme-linked immunosorbent assay for the detection and quantification of Cry2Ab2 in corn tissue has been submitted, and a commercially available qualitative immunochromatographic test strip was shown to detect the Cry2Ab2 protein in corn tissues.

C. Codex Maximum Residue Level

No Codex maximum residue level exists for the plant-incorporated protectant *Bacillus thuringiensis* Cry2Ab2 protein and the genetic material necessary for its production in corn.

VIII. Statutory and Executive Order Reviews

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

IX. 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 174

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

Dated: June 29, 2006.

James Jones,

Director Office of Pesticide Programs.

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

PART 174—[AMENDED]

■ 1. The authority citation for part 174 continues to read as follows:

Authority: 7 U.S.C. 136–136y; 21 U.S.C. 346a and 371.

■ 2. Section 174.454 is added to subpart W to read as follows:

§ 174.454 Bacillus Thuringiensis Cry2Ab2 Protein and the Genetic Material Necessary for its Production in Corn.

Bacillus thuringiensis Cry2Ab2 protein and the genetic material necessary for its production in corn is exempt from the requirement of a tolerance when used as plant-incorporated protectant in the food and feed commodities of field corn, sweet corn and popcorn. Genetic material necessary for its production means the genetic material which comprise genetic material encoding the Cry2Ab2 protein and its regulatory regions. Regulatory regions are the genetic material, such as promoters, terminators, and enhancers, that control the expression of the genetic material encoding the Cry2Ab2 protein. This temporary exemption from the requirement of a tolerance will permit the use of the food commodities in this paragraph when treated in accordance with the provisions of the experimental use permit 524–EUP–97 which is being issued under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended (7 U.S.C. 136). This temporary exemption from the requirement of a tolerance expires and is revoked June 30, 2009; however, if the experimental use permit is revoked, or if any experience with or scientific data on this pesticide indicate that the tolerance is not safe, this temporary exemption from the requirement of a tolerance may be revoked at any time.

[FR Doc. E6–11249 Filed 7–14–06; 8:45 am]

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 648

[Docket No. 060418103–6181–02; I.D. 040706F]

RIN 0648–AT59

Fisheries of the Northeastern United States; Final 2006–2008 Specifications for the Spiny Dogfish Fishery

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

ACTION: Final rule.

SUMMARY: NMFS announces final specifications for the 2006–2008 fishing years, which is May 1, 2006, through April 30, 2009. NMFS is also establishing possession limits for dogfish at 600 lb (272 kg) for both quota periods 1 and 2 of the fishery.

DATES: The regulatory change at 50 CFR 648.235 that sets the dogfish possession limits at 600 lb (272 kg) is effective August 16, 2006. The specifications are effective August 16, 2006, through April 30, 2009.

ADDRESSES: Copies of supporting documents used by the Joint Spiny Dogfish Committee and the Spiny Dogfish Monitoring Committee (Monitoring Committee); the Environmental Assessment, Regulatory Impact Review, Initial Regulatory Flexibility Analysis (EA/RIR/IRFA); and the Essential Fish Habitat Assessment (EFHA) are available from Daniel Furlong, Executive Director, Mid-Atlantic Fishery Management Council (MAFMC), Federal Building, Room 2115, 300 South Street, Dover, DE 19904. The EA, RIR, IRFA and EFHA are accessible via the Internet at *http://www.nero.gov*.

FOR FURTHER INFORMATION CONTACT: Eric Jay Dolin, Fishery Policy Analyst, (978)281–9259, fax (978)281–9135.

SUPPLEMENTARY INFORMATION:

Background

A proposed rule for this action was published in the **Federal Register** on May 8, 2006 (71 FR 26726), with public comment accepted through May 23, 2006. The final specifications are unchanged from those that were proposed. A complete discussion of the development of the specifications appears in the preamble to the proposed rule and is not repeated here.

2006–2008 Specifications

The commercial spiny dogfish quota for the 2006–2008 fishing years is 4 million lb (1.81 million kg) annually, to be divided into two semi-annual periods as follows: 2,316,000 lb (1.05 million kg) for quota period 1 (May 1 - Oct. 31); and 1,684,000 lb (763,849 kg) for quota period 2 (Nov. 1 – April 30). The possession limits are 600 lb (272 kg) for quota periods 1 and 2, to discourage a directed fishery.

Comments and Responses

There were 1,099 comments submitted on the proposed measures, by 4 organizations and 1,095 individuals.

Comment 1: Three organizations and 1,081 individuals argued that NMFS should have followed the Monitoring Committee's recommendation, setting the quota at 2 million lb (907 mt) and the possession limits at 600 lb (272 kg) and 300 lb (136 kg), respectively. These commenters argued that the Monitoring Committee's recommendation represented the best available scientific information.

Response: The Council's analysis concluded that the U.S. commercial spiny dogfish landings are controlled more by the possession limits than the overall quota. Maintaining the limits of 600 lb (272 kg) for both quota periods does not erode the control over landings and would allow for a limited level of retention of spiny dogfish caught incidentally while fishing for other species. Standardizing the possession limits for both quota periods will address a perceived inequity that has been identified by some vessel operators, without creating an incentive for directed fishing. Discouraging directed fishing through this modest possession limit and an incidental catch quota will provide protection for mature female spiny dogfish, the portion of the stock that has traditionally been targeted by the directed fishery, and the stock component that is most in need of protection and rebuilding. These measures would also be consistent with the measures being implemented under the Atlantic States Marine Fishieries Commission's (ASMFC) Interstate Fishery Management Plan in state waters, at least for FY 2006. This would have the benefit of establishing consistent management measures in Federal and state jurisdictions, and would simplify monitoring and enforcement. As demonstrated in previous years, when measures differed in state and Federal waters, the benefits of a more restrictive quota in Federal waters would likely be slight because fishing would continue in state waters

under the less restrictive ASMFC quota. In addition, discard mortality associated with continuing incidental catches would continue to occur after a quota period was closed, further undermining the conservation benefits expected from a more restrictive quota in Federal waters. The Northeast Fisheries Science Center's (NEFSC) review of the proposed measure concluded that the higher quota would not significantly alter the rebuilding period (no more than 1 or 2 years), though continued low recruitment could change this conclusion. Although the specifications are being set for 3 years, the Council and NMFS will continue to review new information in intervening years, and if that information indicates that the specifications need to be modified to ensure continued rebuilding of the stock, the specifications-setting process would be re-initiated to take that information into account.

Comment 2: One organization argued that by not following the Monitoring Committee's recommendation, NMFS would be violating the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act) because it would allow mortality to increase, and therefore increase the time horizon for rebuilding.

Response: The Dogfish Fishery Management Plan (FMP) implemented a strategy to eliminate the directed fishery for dogfish, which was the largest source of dogfish mortality prior to management. A quota was established to allow a limited amount of incidental catch to be landed. Even if the quota were reduced to 0, dogfish mortality would continue to occur since dogfish are caught incidentally in other fisheries. Thus, this action maintains the FMP strategy of eliminating mortality associated with directed fishing for dogfish and allowing limited landings of incidental catch. NMFS believes that this incidental level of harvest is a reasonable exercise of its discretion in line with the court's decision in *Natural Resources Defense Council, Inc.*, v. *National Marine Fisheries Service 4211 F.3d 872*, (9th Cir. 2005). This level will allow those fishing for other species to land a limited amount of dogfish caught incidentally. This will not allow a directed fishery for dogfish, which is the principal objective of the Dogfish FMP. NMFS believes that setting an incidental quota in line with the Monitoring Committee's recommendation would result in discard mortality of dogfish caught incidentally that would otherwise be landed under a higher incidental quota. This deprives fishermen of the limited income they could derive from fish that they would have to discard under the lower quota without having a material benefit to the stock. While section 304(e) of the Magnuson-Stevens Act specifies that a rebuilding period should be short as possible, it invests NMFS with a certain amount of discretion to take into account other factors such as the stock status and biology and the needs needs of fishing communities in determining the length of any rebuilding period.

Comment 3: One organization also did not agree with NMFS's contention that setting the quota at 4 million lb, and possession limits at 600 lb (272 kg) for both periods would be beneficial because it would mirror the ASFMC management measures for 2006. This organization argued that such a decision, "turned the requirements of the Magnuson-Stevens Act on its head," because instead of mirroring the ASFMC, NMFS should focus on rebuilding the stock as quickly as possible. The commenter also suggested that the preemption section of the Magnuson-Stevens Act could be used to resolve conflicts with state law.

Response: As noted in the response to comment 2, NMFS has discretion to take into account other factors in determining how long the rebuilding period should be. There is no absolute legal requirement that a rebuilding period needs to be as short as possible. NMFS has determined that an incidental harvest of dogfish should be allowed. The views of the commenters differ from that of the agency as to what that level should be. Only one commenter suggested that the level should be set at 0. Obviously, there is a recognition that dogfish mortality would continue even were the quota 0, since it is caught incidentally in other fisheries. It would also be a questionable exercise of agency authority to close other fisheries to prevent the incidental mortality of dogfish. NMFS believes that it is a reasonable exercise of its discretion to allow for a 4–million lb (1,814–mt) incidental quota. This will prevent discards of incidentally caught dogfish that would otherwise be landed but for a lower quota, and not allow for directed fishing. The fact that the 4–million lb (1,814–mt) quota will mirror that set by the ASMFC and achieve a consistent management program is important yet ancillary to the establishment of an incidental quota that NMFS believes is reasonable and does not represent a material delay in rebuilding the dogfish fishery.

Preempting state law under the Magnuson-Stevens Act is a politically sensitive process involving strongly held states rights. It is not invoked lightly. It has been used only once or twice during the history of the Magnuson-Stevens Act and then only with the cooperation of the affected state. The Magnuson-Stevens Act reserves the use of this provision only for rare occasions where a state has taken any action or omitted to take any action, the results of which will substantially and adversely affect the carrying out of a FMP. The implementation of a dogfish quota higher than the Federal quota by the states does not fall within those narrowly prescribed circumstances that would allow preemption under the Magnuson-Stevens Act.

Comment 4: Seven individuals argued that the proposed action was not supported by the science, but they did not recommend a specific alternative.

Response: Although these measures do not reflect the Monitoring Committee's recommendation, they are not without scientific support, as is indicated by the analysis presented in the Council's environmental assessment. Specifically, the measures will continue to preclude a directed fishery and contribute to the rebuilding of the stock. As noted in the response to comment 1, the NEFSC's review of the proposed measure concluded that the higher quota, if reached, would not significantly alter the rebuilding period (no more than 1 or 2 years); and given the restraining influence of the low possession limit, it is unlikely that the higher quota will be attained. In light of this, and comments made in other responses included in this action, these measures are a reasonable exercise of the discretion invested in NMFS by the Magnuson-Stevens Act.

Comment 5: One organization and five individuals claimed that there were too many dogfish in the ocean, that NMFS has mismanaged the resource and relied on faulty assessment science, and that NMFS should increase the quota and the possession limits.

Response: NMFS does not question that fishermen frequently encounter dogfish and in large numbers while fishing. However, the best available science indicates that spiny dogfish are overfished and, as such, the Magnuson-Stevens Act requires the development of a management program to rebuild the stock. Given the status of the stock, a directed fishery is not appropriate at this time. Increasing the quota and the possession limits would risk the re-initiation of a directed fishery.

Comment 6: One individual agreed that there were too many dogfish and urged NMFS to allow a male-only fishery.

Response: A directed fishery of any type is inappropriate in light of the overfished condition of the spiny dogfish stock. No one has identified a way to successfully direct fishing on males only.Therefore, If a directed fishery for male dogfish developed, it would likely require the discard of female dogfish, and increase the associated discard mortality. That would likely have a negative impact on the rebuilding program, as it could increase the mortality of mature females.

Comment 7: One individual wanted the dogfish quota set at zero.

Response: For the reasons cited in response 3, NMFS believes that this is not appropriate.

Comment 8: One organization urges NMFS to limit the specifications to 1 year until the 2006 stock assessment is completed and analyzed. After that assessment is completed, the commenter argued, multi-year specifications can be set.

Response: Because the recovery trajectory for spiny dogfish is expected to be rather gradual under the most conservative management regime, NMFS believes that it is appropriate to set the specifications for 3 years. As noted in the response to comment 1, the Council and NMFS will continue to review new information as it is brought forward, and if that information indicates that the specifications need to be modified to ensure continued rebuilding of the stock, the specifications-setting process would be re-initiated to take that information into account. Thus, if the 2006 stock assessment warrants a change in the specifications, in either direction, such a change will be made.

Classification

Included in this final rule is the FRFA prepared pursuant to 5 U.S.C. 604(a). The FRFA incorporates the discussion that follows, the comments and responses to the proposed rule, and the initial regulatory flexibility analysis (IRFA) and other analyses completed in support of this action. A copy of the IRFA is available from the Regional Administrator (see ADDRESSES).

Final Regulatory Flexibility Analysis

Statement of Objective and Need

A description of the reasons why this action is being considered, and the objectives of and legal basis for this action, is contained in the preamble to this proposed rule and is not repeated here.

Description and Estimate of Number of Small Entities to Which the Rule Will Apply

All of the potentially affected businesses are considered small entities under the standards described in NMFS guidelines because they have gross receipts that do not exceed $3.5 million annually. Information from the 2004 fishing year was used to evaluate impacts of this action, as that is the most recent year for which data are complete. According to NMFS permit file data, 2,911 vessels possessed Federal spiny dogfish permits in 2004, while 180 of these vessels contributed to overall landings.

Description of Projected Reporting, Recordkeeping, and Other Compliance Requirements

This action does not contain any new collection-of-information, reporting, recordkeeping, or other compliance requirements. It does not duplicate, overlap, or conflict with any other Federal rules.

Minimizing Significant Economic Impacts on Small Entities

The FRFA evaluated three alternatives. The action described in this final rule establishes a commercial quota of 4 million lb (1,814 mt), and a possession limit of 600 lb (272 kg), in both quota periods, for a period of 3 years. Alternative 2 is the MAFMC proposal, which establishes a 2–million lb (907–mt) quota with possession limits of 600 lb (272 kg) in both quota periods, for a period of 3 years. Alternative 3 is the NEFMC proposal, which establishes a commercial quota of 4–million lb (1,814 mt), with possession limits of 600 lb (272 kg) in both quota periods, for a period of 1 year.

Based on NMFS dealer reports, spiny dogfish landings in fishing year 2004 were roughly 1.5 million lb (680 mt). These landings occurred at a time when the Federal and state management measures for spiny dogfish were identical, with a quota of 4 million lb (1,814 mt), and the possession limits for periods 1 and 2 set at 600 lb (272 kg) and 300 lb (136 kg), respectively. This shows that the U.S. commercial spiny dogfish landings are controlled more by the possession limits than the overall quota, unless the quota is set so low as to be constraining.

All three of the alternatives to the no-action alternative considered could lead to a slight increase in revenues to individual fishermen from the sale of dogfish. This is because all three of the alternatives would increase the possession limit in quota period 2 to 600 lb (272 kg). Setting the possession limit at 600 lb (272 kg) throughout the year, as opposed to 600 (272 kg) and 300 lb (136 kg) in periods 1 and 2 respectively, would allow fishermen to land higher amounts of dogfish in the second period as compared to what was landed in fishing year 2004. If the 1,124 fishing trips that landed spiny dogfish in period 2 of FY2004 had all landed 600 lb (272 kg), periodic landings would have increased from 320,000 lb (145 mt) to 560,000 lb (254 mt), for a net increase of 240,000 lb (109 mt), which, at the average price of 0.17 cents per pound of dogfish, equals roughly an addition $41,000 in net revenue.

Small Entity Compliance Guide

Section 212 of the Small Business Regulatory Enforcement Fairness Act of 1996 states that, for each rule, or group of related rules, for which an agency is required to prepare a FRFA, the agency shall publish one or more guides to assist small entities in complying with the rule and shall designate such publications as "small entity compliance guides." The agency shall explain the actions a small entity is required to take to comply with a rule or group of rules. As part of this rulemaking process, a small entity compliance guide will be sent to all holders of permits issued for the spiny dogfish fishery. In addition, copies of this final rule and guide (i.e., permit holder letter) are available from the Regional Administrator (see **ADDRESSES**) and may be found at the following web site: *http://www.nmfs.gov/ro/doc/nero.html*

List of Subjects in 50 CFR Part 648

Fisheries, Fishing, Reporting and recordkeeping requirements.

Dated: July 11, 2006.

Samuel D. Rauch III,

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

■ For the reasons set out above, 50 CFR part 648 is amended as follows:

PART 648—FISHERIES OF THE NORTHEASTERN UNITED STATES

■ 1. The authority citation for part 648 continues to read as follows:

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

■ 2. In § 648.235, paragraph (b)(1) is revised as follows:

§ 648.235 Possession and landing restrictions.

* * * * *

(b) * * *

(1) Possess up to 600 lb (272 kg) of spiny dogfish per trip; and

* * * * *

[FR Doc. E6–11134 Filed 7–14–06; 8:45 am]

BILLING CODE 3510–22–S

Proposed Rules

Federal Register
Vol. 71, No. 136
Monday, July 17, 2006

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

FEDERAL DEPOSIT INSURANCE CORPORATION

12 CFR Part 328

RIN 3064–AD05

Advertisement of Membership

AGENCY: Federal Deposit Insurance Corporation (FDIC).

ACTION: Notice of proposed rulemaking.

SUMMARY: The FDIC is proposing to revise its regulation governing official FDIC signs and advertising of FDIC membership. The proposed rule would replace the separate signs used by Bank Insurance Fund (BIF) and Savings Association Insurance Fund (SAIF) members with a new sign, or insurance logo, to be used by all insured depository institutions. In addition, the proposed rule would extend the advertising requirements to savings associations and consolidate the exceptions to those requirements. The proposed rule also would restructure the text in certain sections in order to make them easier to read. Finally, the current prohibition pertaining to receipt of deposits at the same teller's station or window as noninsured institutions would be placed in its own section.

DATES: Written comments must be received by the FDIC on or before September 15, 2006.

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

- *Agency Web site: http://www.FDIC.gov/regulations/laws/federal/propose.html.* Follow the instructions for submitting comments.
- *E-mail: comments@fdic.gov.*
- *Mail:* Robert E. Feldman, Executive Secretary, Attention: Comments/Legal ESS, Federal Deposit Insurance Corporation, 550 17th Street, NW., Washington, DC 20429.
- *Hand Delivered/Courier:* The guard station at the rear of the 550 17th Street Building (located on F Street), on business days between 7 a.m. and 5 p.m.
- *Public Inspection:* Comments may be inspected and photocopied in the FDIC Public Information Center, 3501 North Fairfax Drive, Room E–1002, Arlington, Virginia 22226, between 9 a.m. and 5 p.m. on business days.
- *Internet Posting:* Comments received will be posted without change to *http://www.FDIC.gov/regulations/laws/federal/propose.html*, including any personal information provided.
- *Federal e-Rulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.

FOR FURTHER INFORMATION CONTACT: Kara L. Ritchie, Policy Analyst, (202) 898–3716, Division of Supervision and Consumer Protection (DSC); John M. Jackwood, Acting Chief, Compliance Section, (202) 898–3991, DSC; Kathleen G. Nagle, Supervisory Consumer Affairs Specialist, (202) 898–6541, DSC; or Richard B. Foley, Counsel, (202) 898–3784, Legal Division, Federal Deposit Insurance Corporation, Washington, DC 20429.

SUPPLEMENTARY INFORMATION:

I. The Proposed Rule

A. Section 328.0—Scope

The scope provision would be revised by the proposed rule to reflect that there would now be one sign used by all insured depository institutions and the advertising requirements in section 328.3 would be extended to savings associations.

B. Section 328.1—Official Sign

Pursuant to section 18(a) of the Federal Deposit Insurance Act (FDI Act), as amended by section 2(c)(2) of the Federal Deposit Insurance Reform Conforming Amendments Act of 2005, Public Law 109–173, 119 Stat. 3601–19 (FDIRCA Act), the FDIC must promulgate regulations prescribing a sign or signs that each insured depository institution will be required to display at each place of business it maintains. Section 18(a)(1)(B) of the FDI Act, as amended by the FDIRCA Act, specifies that the required sign must include a statement that insured deposits are backed by the full faith and credit of the United States Government. Therefore, this section would be revised to eliminate the separate official bank sign and official savings association sign, and display a black and white version of the new official sign that would be used by all insured depository institutions.

The proposed official sign would be 7″ by 3″ in size, with black lettering and gold background. The design is similar in color scheme and layout to the current bank sign but with the following differences: First, the language above "FDIC" states "Each depositor insured to at least $100,000," instead of "Each depositor insured to $100,000." The revised language more accurately reflects the new deposit insurance coverage limits in the FDIRCA Act and the Federal Deposit Insurance Reform Act of 2005, Public Law 109–171, title II, subtitle B, 120 Stat. 9–21. Second, the proposed sign includes the FDIC's internet website and leaves out the FDIC seal. Finally, the full faith and credit statement required by the FDIRCA Act is in italics on the left side of the proposed sign and is bordered by a semi-circle of stars, a design that partially reflects the current savings association sign.

Section 328.1 also describes the "symbol" of the Corporation that insured depository institutions could use at their option as the official advertising statement. The "symbol" would be that portion of the proposed official sign consisting of "FDIC" and the two lines of smaller type above and below "FDIC."

C. Section 328.2—Display and Procurement of Official Sign

Conforming changes have been proposed to this section in order to make it applicable to all insured depository institutions, not just insured banks. The proposed rule also restructures this section to make it easier to read but without making any substantive changes.

Part 328 uses the term "automatic service facilities" in some places, and the term "remote service facilities" in other places, although the two terms have the same meaning within that part. The proposed rule uses the term "remote service facility" in each place and defines that term in section 328.2(a)(1)(ii) to include any automated teller machine, cash dispensing machine, point-of-sale terminal, or other remote electronic facility where deposits are received.

The current sections 328.2 and 328.4 are virtually identical, except that one applies to insured banks and the other applies to insured savings associations. The key difference between these provisions is that section 328.4 has a

paragraph (e) prohibiting insured savings associations from using the official bank sign. As the new official sign would be applicable to all insured depository institutions, the proposed rule would combine current sections 328.2 and 328.4 into a new section 328.2.

As in the current section 328.2, the proposed revision would allow an insured depository institution to vary the size, color, and materials of the official sign at its expense, and to display such altered signs within the institution at locations other than where insured deposits are received. However, the official sign provided by the FDIC would adhere to the specifications of section 328.1, and only the official sign could be displayed where insured deposits are received. The proposed rule refers to the FDIC's Internet Web site, *http://www.fdic.gov*, for information on obtaining the official sign.

D. Section 328.3—Official Advertising Statement Requirements

(1) Proposal to Extend Official Advertising Statement Requirement to Savings Associations

Section 328.3 requires insured banks to include the official advertising statement in all their advertisements (with certain exceptions). The basic form of the statement is "Member of the Federal Deposit Insurance Corporation," which may be shortened to "Member FDIC." There is no equivalent requirement for insured savings associations. The FDIC proposes to revise section 328.3 to provide for consistent treatment of banks and savings associations by requiring all insured depository institutions to include the official advertising statement in their advertisements.

The FDIC believes there are compelling reasons to apply the advertising requirements equally to banks and savings associations, particularly now that the BIF and SAIF have been merged into one fund, the Deposit Insurance Fund, and there will be one official sign for both banks and savings associations. Consistent treatment of banks and savings associations on this matter would significantly enhance the public's ability to determine whether an institution's deposits are federally insured or not, and it would eliminate any possibility for public confusion. A consistent and uniform rule applicable to both banks and savings associations would best serve the interests of the public and best protect the Deposit Insurance Fund.

(2) Proposals To Consolidate Exceptions to the Required Use of the Official Advertising Statement

There are currently twenty exceptions to the required use of the official advertising statement. The FDIC proposes to simplify the advertising requirements by reducing the number of exceptions to five. The proposed rule does this by limiting the applicability of section 328.3 to advertisements that specifically promote deposit products or generally promote banking services offered by an insured depository institution. The latter would include advertisements that contain an institution's name and a statement about the availability of general banking services. The term *advertisement* is defined as a commercial message, in any medium, that is designed to attract public attention or patronage to a product or business. By limiting the applicability of section 328.3 in this way, most of the current exceptions to the advertising requirements become unnecessary. The exemptions eliminated from the proposed rule are for: statements and reports of condition; bank supplies; listings in directories; and advertisements relating to loan services, safekeeping box services, trust services, real estate services, armored car services, service or analysis charges, securities services, travel department business, and savings bank life insurance.

(3) Other Proposed Revisions

The proposed rule also would make certain clarifying, non-substantive, and conforming editorial changes in section 328.3. In addition, three provisions in the current rule have not been included in the proposed rule because they address narrow situations that rarely occur. The first provision, section 328.3(a)(2), allows the Board to grant temporary exemptions from the advertising requirements for good cause. The second provision, section 328.3(a)(3), concerns advertising copy not including the official advertising statement that is on hand on the date the advertising requirements become operative. The third provision, section 328.3(d), addresses how to handle outstanding billboard advertisements that require use of the official advertising statement.

E. Section 328.4—Prohibition Against Receiving Deposits at Same Teller's Station or Window as Noninsured Institution

Sections 328.2 currently has a provision that prohibits banks from receiving deposits at the same teller's station or window where a noninsured institution receives deposits, except for a remote service facility. Since this provision does not relate directly to the display and procurement of the official sign and is significant enough that it should be set apart in a separate section, the proposed rule would move the provision to section 328.4.

II. Effective Date

In order to give insured depository institutions a transition period to adjust to the new requirements in the proposed revision of part 328, the final rule would be effective six months after publication in the **Federal Register**.

III. Request for Comments

The FDIC requests comments on all aspects of the proposed rule and, in particular, the following issues:

(1) Effective Date

The final rule would be effective six months after publication in the **Federal Register**. The FDIC solicits comment on whether the proposed effective date would give insured depository institutions sufficient time to adjust to the new requirements in the proposed revision of part 328.

(2) Use of Official Advertising Statement in Advertisements Marketing Non-Deposit Products

Many insured depository institutions offer both deposit products and non-deposit products (NDPs). NDPs include both insurance and investment products. Where NDPs are offered, insured depository institutions are required to disclose that they are not federally insured.[1] However, consumers may be confused about Federal deposit insurance coverage when the official advertising statement is used in advertisements that market NDPs. The FDIC therefore solicits comment on whether the final rule should include a provision that would: (1) Prohibit use of the official advertising statement in advertisements relating solely to NDPs or hybrid products containing NDP and deposit features (e.g., sweep accounts); and (2) require that the official advertising statement be clearly segregated from information about NDPs in advertisements containing information about both NDPs and insured deposit products.

[1] See e.g., 12 CFR 343.40 (Consumer Protection in Sales of Insurance rules applicable to FDIC supervised institutions) and the *Interagency Policy Statement on retail Sales of Nondeposit Investment Products*, issued on February 15, 1994.

IV. Paperwork Reduction Act

The proposed rule does not contain any "collections of information" within the meaning of section 3502(3) of the Paperwork Reduction Act of 1995 (44 U.S.C. 3502(3)).

V. Regulatory Flexibility Act

Display of the official sign is required by section 18(a) of FDI Act, as amended by section 2(c)(2) of the FDIRCA Act. There would not be any compliance costs with displaying the official sign, because it would be provided by the FDIC free of charge. Insured banks have complied with similar advertising requirements for over seventy years without significant expense. Although savings associations have not been subject to such advertising requirements, many have used the official advertising statement voluntarily. Moreover, mandatory compliance with the advertising requirements by savings association would not entail significant expense. Accordingly, the Board hereby certifies that the proposed rule would not have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act (5 U.S.C. 601–612).

VI. The Treasury and General Government Appropriations Act, 1999—Assessment of Federal Regulations and Policies on Families

The FDIC has determined that the proposed rule will not affect family well-being within the meaning of section 654 of the Treasury and General Government Appropriations Act, enacted as part of the Omnibus Consolidated and Emergency Supplemental Appropriations Act of 1999 (Pub. L. 105–277, 112 Stat. 2681).

List of Subjects in 12 CFR Part 328

Advertising, Bank deposit insurance, Savings associations, Signs and symbols.

For the reasons stated above, the Board of Directors of the Federal Deposit Insurance Corporation hereby proposes to amend part 328 of title 12, chapter III of the Code of Federal Regulations by revising it to read as follows:

PART 328—ADVERTISEMENT OF MEMBERSHIP

Sec.

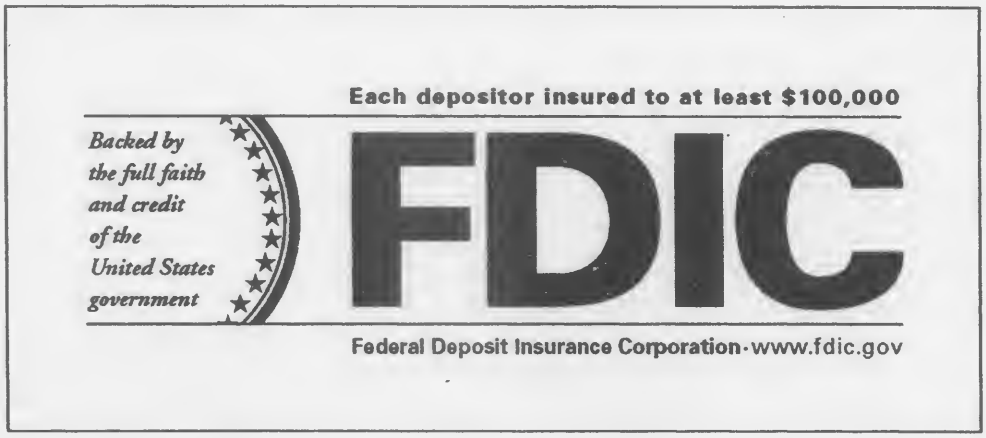
Authority: 12 U.S.C. 1818(a), 1819 (Tenth), 1828(a).

§ 328.0 Scope.

Part 328 describes the official sign of the FDIC and prescribes its use by insured depository institutions. It also prescribes the official advertising statement insured depository institutions must include in their advertisements. For purposes of part 328, the term "insured depository institution" includes insured branches of a foreign depository institution. Part 328 does not apply to non-insured offices or branches of insured depository institutions located in foreign countries.

§ 328.1 Official sign.

(a) The official sign referred to in this part shall be 7″ by 3″ in size, with black lettering and gold background, and of the following design:



(b) The symbol of the Corporation, as used in this part, shall be that portion of the official sign consisting of "FDIC" and the two lines of smaller type above and below "FDIC."

§ 328.2 Display and procurement of official sign.

(a) *Display of official sign.* Each insured depository institution shall continuously display the official sign at each station or window where insured deposits are usually and normally received in the depository institution's principal place of business and in all its branches.

(1) *Other locations—*

(i) *Within the institution.* An insured depository institution may display signs in other locations within the insured depository institution that vary from the official sign in size, colors, or materials.

(ii) *Other facilities.* An insured depository institution may display the official sign on or at Remote Service Facilities. If an insured depository institution displays the official sign at a Remote Service Facility, and if there are any noninsured institutions that share in the Remote Service Facility, any insured depository institution that displays the official sign must clearly show that the sign refers only to a designated insured depository institution(s). As used in this part, the term "Remote Service Facility" includes any automated teller machine, cash dispensing machine, point-of-sale terminal, or other remote electronic facility where deposits are received.

(2) *Newly insured institutions.* A depository institution shall display the official sign no later than its twenty-first

day of operation as an insured depository institution, unless the institution promptly requested the official sign from the Corporation, but did not receive it before that date.

(b) *Procuring official sign.* An insured depository institution may procure the official sign from the Corporation for official use at no charge. Information on obtaining the official sign is posted on the FDIC's Internet Web site, *www.fdic.gov.* Alternatively, insured depository institutions may procure from commercial suppliers signs that vary from the official sign in size, colors, or materials. However, only the official sign may be displayed at stations or windows where insured deposits are usually and normally received. Any insured depository institution which has promptly submitted a written request for an official sign to the Corporation shall not be deemed to have violated this section by failing to display the official sign, unless the insured depository institution fails to display the official sign after receipt thereof.

(c) *Required changes in sign.* The Corporation may require any insured depository institution, upon at least thirty (30) days' written notice, to change the wording of the official sign in a manner deemed necessary for the protection of depositors or others.

§ 328.3 Official advertising statement requirements.

(a) *Advertisement defined.* The term *advertisement,* as used in this part, shall mean a commercial message, in any medium, that is designed to attract public attention or patronage to a product or business.

(b) *Official advertising statement.* The official advertising statement shall be in substance as follows: "Member of the Federal Deposit Insurance Corporation."

(1) *Optional short title and symbol.* The short title "Member of FDIC" or "Member FDIC," or a reproduction of the "symbol" of the Corporation (as defined in section 328.1 of this part), may be used by insured depository institutions at their option as the official advertising statement.

(2) *Size and print.* The official advertising statement shall be of such size and print to be clearly legible. If the "symbol" of the Corporation is used as the official advertising statement, and the "symbol" must be reduced to such proportions that the two lines of smaller type above and below "FDIC" are indistinct and illegible, those lines of smaller type may be blocked out or dropped.

(c) *Use of official advertising statement in all advertisements.*

(1) *General requirement.* Except as provided in paragraph (d) of this section, each insured depository institution shall include the official advertising statement, prescribed in paragraph (b) of this section, in all advertisements that either promote deposit products and services or generally promote banking services offered by the institution.

(2) *Foreign depository institutions.* When a foreign depository institution has both insured and noninsured U.S. branches, the depository institution must also identify which branches are insured and which branches are not insured in all of its advertisements requiring use of the official advertising statement.

(3) *Newly insured institutions.* A depository institution shall include the official advertising statement in its advertisements no later than its twenty-first day of operation as an insured depository institution.

(d) *Types of advertisements which do not require the official advertising statement.* The following types of advertisements do not require use of the official advertising statement:

(1) Signs or plates in the insured depository institution offices or attached to the building or buildings in which such offices are located;

(2) Joint or group advertisements of banking services where the names of insured depository institutions and noninsured institutions are listed and form a part of such advertisements;

(3) Advertisements by radio or television, other than display advertisements, which do not exceed thirty (30) seconds in time;

(4) Advertisements which are of the type or character that make it impractical to include the official advertising statement, including, but not limited to, promotional items such as calendars, matchbooks, pens, pencils, and key chains; and

(5) Advertisements which contain a statement to the effect that the depository institution is a member of the Federal Deposit Insurance Corporation, or that the depository institution is insured by the Federal Deposit Insurance Corporation, or that its deposits or depositors are insured by the Federal Deposit Insurance Corporation to at least $100,000 for each depositor.

(e) *Official advertising statement in non-English language.* The non-English equivalent of the official advertising statement may be used in any advertisement, provided that the translation has had the prior written approval of the Corporation.

§ 328.4 Prohibition against receiving deposits at same teller's station or window as noninsured institution.

(a) *Prohibition.* An insured depository institution may not receive deposits at any teller's station or window where any noninsured institution receives deposits or similar liabilities.

(b) *Exception.* This section does not apply to deposits received at a Remote Service Facility.

Dated at Washington DC, this 11th day of July, 2006.

By order of the Board of Directors.

Federal Deposit Insurance Corporation.

Robert E. Feldman,

Executive Secretary.

[FR Doc. 06–6261 Filed 7–14–06; 8:45 am]

BILLING CODE 6714–01–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; correction.

SUMMARY: On June 23, 2006, we published a document on proposed special conditions for Cessna Aircraft Company on the Model 510 airplane for turbofan engines and engine location. There was an error in the background of the document in reference to the future type certificate number. This notice removes that sentence from the background; no change to the proposed special conditions portion is necessary.

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:

Need for Correction

The FAA published a document on June 23, 2006 (71 FR 36040), that issued proposed special conditions. In the background, the sentence "If approved, the Cessna 510 would be approved under TC No. A24CE" appears. However, this will not be the type certificate number for the airplane, and this sentence is removed from the background to correct the error. There will be no change to the proposed special conditions.

Correction of Publication

Accordingly, the background of the proposed special conditions is revised to remove the sentence, "If approved, the Cessna 510 would be approved under TC No. A24CE" from the document.

Comments Invited

Interested persons are invited to participate in the making of these proposed 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

The original background of the proposed special conditions contained the following sentence: "If approved, the Cessna 510 would be approved under TC No. A24CE." This type certificate number is incorrect, and the sentence is removed from the background of the proposed special conditions. Since this change has no effect on the proposed special conditions, the remainder of the document, which includes the proposed special condition portion, will not be changed.

Issued in Kansas City, Missouri on July 6, 2006.

Kim Smith,

Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. E6–11153 Filed 7–14–06; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2006–25180; Airspace Docket No. 06–AAL–19]

Proposed Establishment of Class E Airspace; Kokhanok, AK

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This action proposes to establish Class E airspace at Kokhanok, AK. Two new Standard Instrument Approach Procedures (SIAPs) and a new Departure Procedure (DP) are being published for the Kokhanok Airport. Adoption of this proposal would result in creation of new Class E airspace upward from 700 feet (ft.) and 1,200 ft. above the surface at Kokhanok Airport, Village of Kokhanok, AK.

DATES: Comments must be received on or before August 31, 2006.

ADDRESSES: Send comments on the proposal to the Docket Management System, U.S. Department of Transportation, Room Plaza 401, 400 Seventh Street, SW., Washington, DC 20590–0001. You must identify the docket number FAA–2006–25180/ Airspace Docket No. 06–AAL–19, at the beginning of your comments. You may also submit comments on the Internet at *http://dms.dot.gov.* You may review the public docket containing the proposal, any comments received, and any final disposition in person in the Dockets Office between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The Docket Office (telephone 1–800–647–5527) is on the plaza level of the Department of Transportation NASSIF Building at the above address.

An informal docket may also be examined during normal business hours at the office of the Manager, Safety, Alaska Flight Service Operations, Federal Aviation Administration, 222 West 7th Avenue, Box 14, Anchorage, AK 99513–7587.

FOR FURTHER INFORMATION CONTACT: Gary Rolf, Federal Aviation Administration, 222 West 7th Avenue, Box 14, Anchorage, AK 99513–7587; telephone number (907) 271–5898; fax: (907) 271–2850; e-mail: *gary.ctr.rolf@faa.gov.* Internet address: *http://www.alaska.faa.gov/at.*

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy-related aspects of the proposal. Communications should identify both docket numbers and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket No. FAA–2006–25180/Airspace Docket No. 06–AAL–19." The postcard will be date/time stamped and returned to the commenter.

All communications received on or before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this notice may be changed in light of comments received. All comments submitted will be available for examination in the public docket both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of Notice of Proposed Rulemaking's (NPRM's)

An electronic copy of this document may be downloaded through the Internet at *http://dms.dot.gov.* Recently published rulemaking documents can also be accessed through the FAA's Web page at *http://www.faa.gov* or the Superintendent of Document's Web page at *http://www.access.gpo.gov/nara.*

Additionally, any person may obtain a copy of this notice by submitting a request to the Federal Aviation Administration, Office of Air Traffic Airspace Management, ATA–400, 800 Independence Avenue, SW., Washington, DC 20591 or by calling

(202) 267–8783. Communications must identify both docket numbers for this notice. Persons interested in being placed on a mailing list for future NPRM's should contact the FAA's Office of Rulemaking, (202) 267–9677, to request a copy of Advisory Circular No. 11–2A, Notice of Proposed Rulemaking Distribution System, which describes the application procedure.

The Proposal

The FAA is considering an amendment to the Code of Federal Regulations (14 CFR Part 71), which would create new Class E airspace at Kokhanok Airport, AK. The intended effect of this proposal is to create Class E airspace upward from 700 ft. and 1,200 ft. above the surface to contain Instrument Flight Rules (IFR) operations at Kokhanok Airport, AK.

The FAA Instrument Flight Procedures Production and Maintenance Branch has developed two new SIAPs and a new DP for the Kokhanok Airport. The new approaches (1) Area Navigation (Global Positioning System) (RNAV (GPS)) Runway (RWY) 06, Original; and (2) RNAV (GPS) RWY 24, Original. The DP is unnamed and will be published in the front of the Flight Information Publication: U.S. Terminal Procedures Alaska. New Class E controlled airspace extending upward from 700 ft. and 1,200 ft. above the surface within the Kokhanok Airport area would be established by this action. The proposed airspace is sufficient in size to contain aircraft executing the new instrument procedures at the Kokhanok Airport.

The area would be depicted on aeronautical charts for pilot reference. The coordinates for this airspace docket are based on North American Datum 83. The Class E airspace areas designated as 700/1200 foot transition areas are published in paragraph 6005 in FAA Order 7400.9N, Airspace Designations and Reporting Points, dated September 1, 2005, and effective September 15, 2005, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designations listed in this document would be published subsequently in the Order.

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

The FAA's authority to issue rules regarding aviation safety is found in Title 49 of the United States Code. Subtitle 1, Section 106 describes the authority of the FAA Administrator. Subtitle VII, Aviation Programs, describes in more detail the scope of the agency's authority.

This rulemaking is promulgated under the authority described in Subtitle VII, Part A, Subpart 1, Section 40103, Sovereignty and use of airspace. Under that section, the FAA is charged with prescribing regulations to ensure the safe and efficient use of the navigable airspace. This regulation is within the scope of that authority because it proposes to create Class E airspace sufficient in size to contain aircraft executing instrument procedures at Kokhanok Airport and represents the FAA's continuing effort to safely and efficiently use the navigable airspace.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

The Proposed Amendment

In consideration of the foregoing, the Federal Aviation Administration proposes to amend 14 CFR part 71 as follows:

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

1. The authority citation for 14 CFR part 71 continues to read as follows:

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

§ 71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of Federal Aviation Administration Order 7400.9N, Airspace Designations and Reporting Points, dated September 1, 2005, and effective September 15, 2005, is to be amended as follows:

* * * * *

Paragraph 6005 Class E airspace extending upward from 700 feet or more above the surface of the earth.

* * * * *

AAL AK E5 Village of Kokhanok, AK [New]

Kokhanok Airport, AK
(Lat. 59°26′00″ N., long. 154°30′09″ W.)

That airspace extending upward from 700 feet above the surface within a 6.9-mile radius of the Kokhanok Airport and that airspace 1 mile north and 1 mile south of the 241°(M)/260°(T) bearing from the Kokhanok Airport extending from the 6.9-mile radius to 8.8 miles; and that airspace extending upward from 1,200 feet above the surface within a 49-mile radius of the Kokhanok Airport.

* * * * *

Issued in Anchorage, AK, on July 5, 20[illegible]

Anthony M. Wylie,

Director, Flight Service Information Office (AK).

[FR Doc. E6–11155 Filed 7–14–06; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2006–25181; Airspace Docket No. 06–AAL–20]

Proposed Revision of Class E Airspace; Mountain Village, AK

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This action proposes to revise Class E airspace at Mountain Village, AK. Two new Standard Instrument Approach Procedures (SIAPs) are being developed along with a Departure Procedure (DP) for the Mountain Village Airport. Adoption of this proposal would result in revision of existing Class E airspace upward from 700 feet (ft.) above the surface at Mountain Village Airport, Mountain Village, AK.

DATES: Comments must be received on or before August 31, 2006.

ADDRESSES: Send comments on the proposal to the Docket Management System, U.S. Department of Transportation, Room Plaza 401, 400 Seventh Street, SW., Washington, DC 20590–0001. You must identify the docket number FAA–2006–25181/ Airspace Docket No. 06–AAL–20, at the beginning of your comments. You may also submit comments on the Internet at *http://dms.dot.gov.* You may review the public docket containing the proposal, any comments received, and any final disposition in person in the Dockets

Office between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The Docket Office (telephone 1–800–647–5527) is on the plaza level of the Department of Transportation NASSIF Building at the above address.

An informal docket may also be examined during normal business hours at the office of the Manager, Safety, Alaska Flight Service Operations, Federal Aviation Administration, 222 West 7th Avenue, Box 14, Anchorage, AK 99513–7587.

FOR FURTHER INFORMATION CONTACT: Gary Rolf, Federal Aviation Administration, 222 West 7th Avenue, Box 14, Anchorage, AK 99513–7587; telephone number (907) 271–5898; fax: (907) 271–2850; e-mail: *gary.ctr.rolf@faa.gov*. Internet address: *http://www.alaska.faa.gov/at*.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy-related aspects of the proposal. Communications should identify both docket numbers and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket No. FAA–2006–25181/Airspace Docket No. 06–AAL–20." The postcard will be date/time stamped and returned to the commenter.

All communications received on or before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this notice may be changed in light of comments received. All comments submitted will be available for examination in the public docket both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of Notice of Proposed Rulemaking's (NPRM's)

An electronic copy of this document may be downloaded through the Internet at *http://dms.dot.gov*. Recently published rulemaking documents can also be accessed through the FAA's Web page at *http://www.faa.gov* or the Superintendent of Document's Web page at *http://www.access.gpo.gov/nara*.

Additionally, any person may obtain a copy of this notice by submitting a request to the Federal Aviation Administration, Office of Air Traffic Airspace Management, ATA–400, 800 Independence Avenue, SW., Washington, DC 20591 or by calling (202) 267–8783. Communications must identify both docket numbers for this notice. Persons interested in being placed on a mailing list for future NPRM's should contact the FAA's Office of Rulemaking, (202) 267–9677, to request a copy of Advisory Circular No. 11–2A, Notice of Proposed Rulemaking Distribution System, which describes the application procedure.

The Proposal

The FAA is considering an amendment to the Code of Federal Regulations (14 CFR part 71), which would revise the Class E airspace at Mountain Village Airport, AK. The intended effect of this proposal is to revise Class E airspace upward from 700 ft. above the surface to contain Instrument Flight Rules (IFR) operations at Mountain Village Airport, AK.

The FAA Instrument Flight Procedures Production and Maintenance Branch has developed two new SIAPs and one new DP for the Mountain Village Airport. The new approaches are (1) the Area Navigation (Global Positioning System) (RNAV (GPS)) Runway (RWY) 02, Original and (2) RNAV (GPS) RWY 20, Original. The DP is unnamed and will be published in the front of the U.S. Terminal Procedures for Alaska. Class E controlled airspace extending upward from 700 ft above the surface within the Mountain Village Airport area would be revised by this action. The proposed airspace is sufficient in size to contain aircraft executing the instrument procedures at the Mountain Village Airport.

The area would be depicted on aeronautical charts for pilot reference. The coordinates for this airspace docket are based on North American Datum 83. The Class E airspace areas designated as 700/1200 foot transition areas are published in paragraph 6005 in FAA Order 7400.9N, *Airspace Designations and Reporting Points*, dated September 1, 2005, and effective September 15, 2005, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designations listed in this document would be published subsequently in the Order.

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

The FAA's authority to issue rules regarding aviation safety is found in Title 49 of the United States Code. Subtitle 1, Section 106 describes the authority of the FAA Administrator. Subtitle VII, Aviation Programs, describes in more detail the scope of the agency's authority.

This rulemaking is promulgated under the authority described in Subtitle VII, Part A, Subpart 1, Section 40103, Sovereignty and use of airspace. Under that section, the FAA is charged with prescribing regulations to ensure the safe and efficient use of the navigable airspace. This regulation is within the scope of that authority because it proposes to create Class E airspace sufficient in size to contain aircraft executing instrument procedures at Mountain Village Airport and represents the FAA's continuing effort to safely and efficiently use the navigable airspace.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

The Proposed Amendment

In consideration of the foregoing, the Federal Aviation Administration proposes to amend 14 CFR part 71 as follows:

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

1. The authority citation for 14 CFR part 71 continues to read as follows:

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

§71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of Federal Aviation Administration Order 7400.9N, *Airspace Designations and Reporting Points*, dated September 1, 2005, and effective September 15, 2005, is to be amended as follows:

* * * * *

Paragraph 6005 Class E airspace extending upward from 700 feet or more above the surface of the earth.

* * * * *

AAL AK E5 Mountain Village, AK [Revised]

Mountain Village Airport, AK
(Lat. 62°05′41″ N., long. 163°40′58″ W.)

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

* * * * *

Issued in Anchorage, AK, on July 5, 2006.

Anthony M. Wylie,

Director, Flight Service Information Office (AK).

[FR Doc. E6–11157 Filed 7–14–06; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2006–25184; Airspace Docket No. 06-AAL–22]

Proposed Revision of Class E Airspace; Saint (St.) Mary's, AK

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This action proposes to revise Class E airspace at St. Mary's, AK. Three Standard Instrument Approach Procedures (SIAPs) are being amended and one SIAP is being developed for the St. Mary's Airport. Adoption of this proposal would result in revision of existing Class E airspace upward from the surface and 700 feet (ft.) above the surface at St. Mary's Airport, St. Mary's, AK.

DATES: Comments must be received on or before August 31, 2006.

ADDRESSES: Send comments on the proposal to the Docket Management System, U.S. Department of Transportation, Room Plaza 401, 400 Seventh Street, SW., Washington, DC 20590–0001. You must identify the docket number FAA–2006–25184/ Airspace Docket No. 06–AAL–22, at the beginning of your comments. You may also submit comments on the Internet at *http://dms.dot.gov*. You may review the public docket containing the proposal, any comments received, and any final disposition in person in the Dockets Office between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The Docket Office (telephone 1–800–647–5527) is on the plaza level of the Department of Transportation NASSIF Building at the above address.

An informal docket may also be examined during normal business hours at the office of the Manager, Safety, Alaska Flight Service Operations, Federal Aviation Administration, 222 West 7th Avenue, Box 14, Anchorage, AK 99513–7587.

FOR FURTHER INFORMATION CONTACT: Gary Rolf, Federal Aviation Administration, 222 West 7th Avenue, Box 14, Anchorage, AK 99513–7587; telephone number (907) 271–5898; fax: (907) 271–2850; e-mail: *gary.ctr.rolf@faa.gov*. Internet address: *http://www.alaska.faa.gov/at*.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy-related aspects of the proposal. Communications should identify both docket numbers and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket No. FAA–2006–25184/Airspace Docket No. 06–AAL–22." The postcard will be date/time stamped and returned to the commenter.

All communications received on or before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this notice may be changed in light of comments received. All comments submitted will be available for examination in the public docket both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of Notice of Proposed Rulemaking's (NPRM's)

An electronic copy of this document may be downloaded through the Internet at *http://dms.dot.gov*. Recently published rulemaking documents can also be accessed through the FAA's Web page at *http://www.faa.gov* or the Superintendent of Document's Web page at *http://www.access.gpo.gov/nara*.

Additionally, any person may obtain a copy of this notice by submitting a request to the Federal Aviation Administration, Office of Air Traffic Airspace Management, ATA–400, 800 Independence Avenue, SW., Washington, DC 20591 or by calling (202) 267–8783. Communications must identify both docket numbers for this notice. Persons interested in being placed on a mailing list for future NPRM's should contact the FAA's Office of Rulemaking, (202) 267–9677, to request a copy of Advisory Circular No. 11–2A, Notice of Proposed Rulemaking Distribution System, which describes the application procedure.

The Proposal

The FAA is considering an amendment to the Code of Federal Regulations (14 CFR Part 71), which would revise the Class E airspace at St. Mary's Airport, AK. The intended effect of this proposal is to revise Class E airspace upward from the surface and 700 ft. above the surface to contain Instrument Flight Rules (IFR) operations at St. Mary's Airport, AK.

The FAA Instrument Flight Procedures Production and Maintenance Branch has amended three SIAPs and developed one new SIAP for the St. Mary's Airport. The amended approaches are (1) the Area Navigation (Global Positioning System) (RNAV (GPS)) Runway (RWY) 17, Amendment (Amdt) 1; (2) Localizer (LOC)/Distance Measuring Equipment (DME) RWY 17, Amdt 3 and (3) Direction Finding (DF) RWY 06, Amdt 1. The DF is unpublished but is used in emergency situations by Flight Service Station personnel to aid lost pilots. The new approach is the RNAV (GPS) RWY 35, Original. Class E controlled airspace extending upward from the surface and 700 ft. above the surface within the St. Mary's Airport area would be revised by this action. The proposed airspace is sufficient in size to contain aircraft executing the instrument procedures at the St. Mary's Airport.

The area would be depicted on aeronautical charts for pilot reference. The coordinates for this airspace docket are based on North American Datum 83. The Class E airspace areas designated as

700/1200 foot transition areas are published in paragraph 6005 in FAA Order 7400.9N, *Airspace Designations and Reporting Points*, dated September 1, 2005, and effective September 15, 2005, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designations listed in this document would be published subsequently in the Order.

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

The FAA's authority to issue rules regarding aviation safety is found in Title 49 of the United States Code. Subtitle 1, Section 106 describes the authority of the FAA Administrator. Subtitle VII, Aviation Programs, describes in more detail the scope of the agency's authority.

This rulemaking is promulgated under the authority described in Subtitle VII, Part A, Subpart 1, Section 40103, Sovereignty and use of airspace. Under that section, the FAA is charged with prescribing regulations to ensure the safe and efficient use of the navigable airspace. This regulation is within the scope of that authority because it proposes to create Class E airspace sufficient in size to contain aircraft executing instrument procedures at St. Mary's Airport and represents the FAA's continuing effort to safely and efficiently use the navigable airspace.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

The Proposed Amendment

In consideration of the foregoing, the Federal Aviation Administration proposes to amend 14 CFR part 71 as follows:

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

1. The authority citation for 14 CFR part 71 continues to read as follows:

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

§ 71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of Federal Aviation Administration Order 7400.9N, *Airspace Designations and Reporting Points*, dated September 1, 2005, and effective September 15, 2005, is to be amended as follows:

* * * * *

Paragraph 6005 Class E airspace extending upward from 700 feet or more above the surface of the earth.

* * * * *

AAL AK E2 St. Mary's, AK [Revised]

St. Mary's Airport, AK
(Lat. 62°03′38″ N., long. 163°18′08″ W.)

That airspace extending upward from the surface within a 6.7-mile radius of the St. Mary's Airport and that airspace 4 miles east and 4 miles west of the 180°(M)/195° (T) bearing from the St. Mary's Airport extending from the 6.7-mile radius to 10 miles. This Class E airspace is effective during the specific times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airport/Facility Directory.

AAL AK E5 St. Mary's, AK [Revised]

St. Mary's Airport, AK
(Lat. 62°03′38″ N., long. 163°18′08″ W.)

That airspace extending upward from 700 feet above the surface within a 8.7-mile radius of the St. Mary's Airport and that airspace 4 miles east and 8 miles west of the 180((M)/195° (T) bearing from the St. Mary's Airport extending from the 8.7-mile radius to 16 miles.

* * * * *

Issued in Anchorage, AK, on July 5, 2006.

Anthony M. Wylie,

Director, Flight Service Information Office (AK).

[FR Doc. E6–11158 Filed 7–14–06; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2006–25182; Airspace Docket No. 06–AAL–21]

Proposed Revision of Class E Airspace; Village of Iliamna, AK

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This action proposes to revise Class E airspace at Iliamna, AK. One Standard Instrument Approach Procedure (SIAP) is being amended for the Iliamna Airport. Adoption of this proposal would result in revision of existing Class E airspace upward from 700 feet (ft.) and 1,200 ft. above the surface at Iliamna Airport, Village of Iliamna, AK.

DATES: Comments must be received on or before August 31, 2006.

ADDRESSES: Send comments on the proposal to the Docket Management System, U.S. Department of Transportation, Room Plaza 401, 400 Seventh Street, SW., Washington, DC 20590–0001. You must identify the docket number FAA–2006–25182/ Airspace Docket No. 06–AAL–21, at the beginning of your comments. You may also submit comments on the Internet at *http://dms.dot.gov*. You may review the public docket containing the proposal, any comments received, and any final disposition in person in the Dockets Office between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The Docket Office (telephone 1–800–647–5527) is on the plaza level of the Department of Transportation NASSIF Building at the above address.

An informal docket may also be examined during normal business hours at the office of the Manager, Safety, Alaska Flight Service Operations, Federal Aviation Administration, 222 West 7th Avenue, Box 14, Anchorage, AK 99513–7587.

FOR FURTHER INFORMATION CONTACT: Gary Rolf, Federal Aviation Administration, 222 West 7th Avenue, Box 14, Anchorage, AK 99513–7587; telephone number (907) 271–5898; fax: (907) 271–2850; e-mail: *gary.ctr.rolf@faa.gov*. Internet address: *http://www.alaska.faa.gov/at*.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views,

or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy-related aspects of the proposal. Communications should identify both docket numbers and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket No. FAA–2006–25182/Airspace Docket No. 06–AAL–21." The postcard will be date/time stamped and returned to the commenter.

All communications received on or before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this notice may be changed in light of comments received. All comments submitted will be available for examination in the public docket both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of Notice of Proposed Rulemaking's (NPRM's)

An electronic copy of this document may be downloaded through the Internet at *http://dms.dot.gov*. Recently published rulemaking documents can also be accessed through the FAA's Web page at *http://www.faa.gov* or the Superintendent of Document's Web page at *http://www.access.gpo.gov/nara*.

Additionally, any person may obtain a copy of this notice by submitting a request to the Federal Aviation Administration, Office of Air Traffic Airspace Management, ATA–400, 800 Independence Avenue, SW., Washington, DC 20591 or by calling (202) 267–8783. Communications must identify both docket numbers for this notice. Persons interested in being placed on a mailing list for future NPRM's should contact the FAA's Office of Rulemaking, (202) 267–9677, to request a copy of Advisory Circular No. 11–2A, Notice of Proposed Rulemaking Distribution System, which describes the application procedure.

The Proposal

The FAA is considering an amendment to the Code of Federal Regulations (14 CFR part 71), which would revise the Class E airspace at Iliamna Airport, AK. The intended effect of this proposal is to revise Class E airspace upward from 700 ft. and 1,200 ft. above the surface to contain Instrument Flight Rules (IFR) operations at Iliamna Airport, AK.

The FAA Instrument Flight Procedures Production and Maintenance Branch has amended a SIAP for the Iliamna Airport. The approach is the Area Navigation (Global Positioning System) (RNAV (GPS)) Runway (RWY) 07, Amendment 2. Class E controlled airspace extending upward from 700 ft and 1,200 ft. above the surface within the Iliamna Airport area would be revised by this action. The proposed airspace is sufficient in size to contain aircraft executing the instrument procedures at the Iliamna Airport.

The area would be depicted on aeronautical charts for pilot reference. The coordinates for this airspace docket are based on North American Datum 83. The Class E airspace areas designated as 700/1200 foot transition areas are published in paragraph 6005 in FAA Order 7400.9N, *Airspace Designations and Reporting Points*, dated September 1, 2005, and effective September 15, 2005, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designations listed in this document would be published subsequently in the Order.

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

The FAA's authority to issue rules regarding aviation safety is found in Title 49 of the United States Code. Subtitle 1, Section 106 describes the authority of the FAA Administrator. Subtitle VII, Aviation Programs, describes in more detail the scope of the agency's authority.

This rulemaking is promulgated under the authority described in Subtitle VII, Part A, Subpart 1, Section 40103, Sovereignty and use of airspace. Under that section, the FAA is charged with prescribing regulations to ensure the safe and efficient use of the navigable airspace. This regulation is within the scope of that authority because it proposes to create Class E airspace sufficient in size to contain aircraft executing instrument procedures at Iliamna Airport and represents the FAA's continuing effort to safely and efficiently use the navigable airspace.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

The Proposed Amendment

In consideration of the foregoing, the Federal Aviation Administration proposes to amend 14 CFR part 71 as follows:

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

1. The authority citation for 14 CFR part 71 continues to read as follows:

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

§ 71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of Federal Aviation Administration Order 7400.9N, *Airspace Designations and Reporting Points*, dated September 1, 2005, and effective September 15, 2005, is to be amended as follows:

* * * * *

Paragraph 6005 Class E airspace extending upward from 700 feet or more above the surface of the earth.

* * * * *

AAL AK E5 Village of Iliamna, AK [Revised]

Iliamna Airport, AK
(Lat. 59°45′16″ N., long. 154°54′39″ W.)
Iliamna NDB
(Lat. 59°44′53″ N., long. 154°54′35″ W.)

That airspace extending upward from 700 feet above the surface within a 6.7-mile radius of the Iliamna Airport and that airspace 4 miles west and 8 miles east of the 281((M)/200((T) bearing of the Iliamna NDB extending from the 6.7-mile radius to 16 miles; and that airspace extending upward from 1,200 feet above the surface within an area bounded by lat. 60°14′00″ N. long. 154°54′00″ W., to lat. 59°46′20″ N. long. 153°52′00″ W., to lat. 59°43′00″ N. long 153°00′00″ W., to lat. 59°33′00″ N. long.

153°00'00" W., to lat. 59°28'00" N. long.
154°13'00" W., to lat. 59°18'00" N. long.
154°04'00" W., to lat. 59°11'00" N. long.
155°17'00" W., to lat. 59°32'00" N. long.
155°31'00" W., to lat. 59°41'00" N. long.
156°35'00" W., to the point of beginning.
* * * * *

Issued in Anchorage, AK, on July 5, 2006.

Anthony M. Wylie,

Director, Flight Service Information Office (AK).

[FR Doc. E6–11188 Filed 7–14–06; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

25 CFR Part 171

RIN 1076–AD44

Irrigation Operation and Maintenance

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Department of the Interior, Bureau of Indian Affairs (BIA), is proposing to revise the regulations governing irrigation projects under its jurisdiction. The purpose of the revisions is to provide consistent administration; establish the process for updating practices, policies, and procedures for the administration, operation, maintenance, and rehabilitation of irrigation projects; and provide uniform accounting and recordkeeping procedures.

These regulations have also been rewritten in plain English as mandated by Executive Order 12866. They also address several issues that prior regulations did not cover.

DATES: We must receive your written comments on this proposed rulemaking by November 14, 2006.

ADDRESSES: You may submit comments on this proposed rule, identified by the number 1076–AD44, by any of the following methods:

- Federal rulemaking portal: *http://www.regulations.gov.* Follow the instructions for submitting comments.
- Fax: (202) 219–0006.
- Mail: Arch Wells, Acting Deputy Director, Office of Trust Services, Bureau of Indian Affairs, Department of the Interior, 1849 C Street, NW., Mail Stop 4655–MIB, Washington, DC 20240.
- Hand delivery: Office of Trust Services, Bureau of Indian Affairs, 1849 C Street, NW., Mail Stop 4655–MIB, Washington, DC 20240.

You may submit comments with respect to the information collection burden of the proposed rule to the Office of Information and Regulatory Affairs, Office of Management and Budget, by telefacsimile at (202) 395–6566 or by e-mail at *OIRA_DOCKET@omb.eop.gov.* Please also send a copy of your comments to BIA at the location specified above. Note that requests for comments on the rule and the information collection are separate.

FOR FURTHER INFORMATION CONTACT: John Anevski, Chief, Branch of Irrigation and Power, Division of Water and Land Resources, Bureau of Indian Affairs, Department of the Interior, 1849 C Street, NW., Mail Stop 4655–MIB, Washington, DC 20240; Telephone (202) 208–5480.

SUPPLEMENTARY INFORMATION: We are publishing this revised rule under the authority delegated by the Secretary of the Interior to the Assistant Secretary—Indian Affairs by 209 DM 8.

Background

The revised regulations clarify prior regulatory language, in keeping with the "plain language" standard required by Executive Order 12866. In revising this regulation, many sections of the regulation were identified as redundant or unnecessary and are proposed to be deleted. New sections have been added to comply with the Inspector General's (IG) audit findings and to implement the provisions of the Debt Collection Improvement Act of 1996.

Several IG audits, the most recent in 1996 (96–I–641), identified a management deficiency concerning full cost rates for operation and maintenance. Also, the Debt Collection Improvement Act of 1996 established new procedures to manage monies owed the Federal Government. The revisions address both of these issues.

The proposed revisions to 25 CFR part 171 were previously published on July 5, 1996 (61 FR 35167). Due to the length of time that has passed and changes to the proposed regulations, the proposed revisions are being published again for public comment. This republication is to provide a fresh start on the rulemaking process for this revision.

Consultation meetings with the tribes that may be impacted by these regulations were held on August 24 and 26, 2004, and May 10 and 12, 2005. Additional consultation meetings with tribes may be scheduled during the comment period. These consultation meetings are in accordance with Executive Order 13175 and are for tribes and tribal members only. The general public and non-tribal members must submit their comments in accordance with this document. Tribes and tribal members may also submit comments in accordance with this document.

Procedural Requirements

Regulatory Planning and Review (Executive Order 12866)

This document is not a significant rule and the Office of Management and Budget has not reviewed this rule under Executive Order 12866.

(1) This rule will not have an effect of $100 million or more on the economy. It will not adversely affect in a material way the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities. This is an existing regulation that is being revised to implement the Inspector General's audit findings and the Debt Collection Improvement Act of 1996.

(2) This rule will not create a serious inconsistency or otherwise interfere with an action taken or planned by another agency. The irrigation projects impacted by these revisions are solely owned by the BIA and no other agency provides supplemental services or is impacted by the operation.

(3) This rule does not alter the budgetary effects of entitlements, grants, user fees, or loan programs or the rights or obligations of their recipients. The user fees or assessments that the BIA establishes at each irrigation project to recover its costs will eventually be impacted as the BIA reviews its rates and strives to implement full cost rates.

(4) This rule does not raise novel legal or policy issues. No new authorities or policies are being established.

Regulatory Flexibility Act

The Department of the Interior certifies that this document will not have a significant economic effect on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). An initial Regulatory Flexibility Analysis is not required because Indian tribes are not considered to be small entities for purposes of this act.

Small Business Regulatory Enforcement Fairness Act (SBREFA)

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

a. Does not have an annual effect on the economy of $100 million or more. The total revenue stream for the operation and maintenance of BIA irrigation projects is approximately $25 million annually. This is below the $100 million threshold.

b. Will not cause a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions. These revisions establish a procedure for identifying full cost rates for BIA irrigation projects. This is not expected to cause major increases in the near future. However, there is a potential that this could result in appreciable rate increases in the long-term.

c. Does not have significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of U.S.-based enterprises to compete with foreign-based enterprises. BIA irrigation projects are generally small and have minimal impacts on the economy. The projects are not in competition with other entities since they are located on reservations that are under the strict purview of the Department of the Interior, Bureau of Indian Affairs.

Unfunded Mandates Reform Act

This rule does not impose an unfunded mandate on State, local, or tribal governments or the private sector of more than $100 million per year. The rule does not have a significant or unique effect on State, local, or tribal governments or the private sector. The BIA irrigation projects are located on reservations that are under the strict purview of the Department of the Interior, Bureau of Indian Affairs. A statement containing the information required by the Unfunded Mandates Reform Act (2 U.S.C. 1531 *et seq.*) is not required.

Takings (Executive Order 12630)

In accordance with Executive Order 12630, the rule does not have significant takings implications. The rule revisions do not deprive the public, state, or local governments of rights or property. A takings implication assessment is not required.

Federalism (Executive Order 13132)

In accordance with Executive Order 13132, the rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment because they will not interfere with the roles, rights, and responsibilities of states.

Civil Justice Reform (Executive Order 12988)

In accordance with Executive Order 12988, the Office of the Solicitor has determined that this rule does not unduly burden the judicial system and meets the requirements of sections 3(a) and 3(b)(2) of the Order.

Paperwork Reduction Act of 1995

These rule revisions affect the collection of information, which was previously approved by the Office of Information and Regulatory Affairs, Office of Management and Budget, under the Paperwork Reduction Act of 1995. The additions to the information collection reflect new requirements since the last renewal. A revised information collection package is being submitted to OMB for approval.

The Bureau of Indian Affairs operates 15 irrigation projects that provide irrigation services to the end user. The information we collect enables us to properly bill for the services we provide by collecting information that identifies the individual responsible for paying the costs of the services. Some of the information is needed to satisfy the requirements of the Debt Collection Improvement Act of 1996. Our previous cleared collection of information did not reflect other services, which are now available to the user. The table addresses the services available, the number of users, the burden for each as well as the yearly total and the sections in the rule that apply to the collection items.

Service	CFR section 171	Hourly burden to respondent per request	Number of respondent requests annually	Total annual burden hours	Salary per hour ($20) × all respondent requests = annual cost burden
Requesting irrigation service	200/600	0.5	26,156	13,078	$261,560
Subdividing a farm unit	225	4	1	4	80
Requesting leaching service	305	1	40	40	800
Requesting water for domestic or stock purposes	*310	.3	474	142	2,840
Building non-government structures in BIA rights-of-ways	405	3	67	201	4,020
Installing a fence on BIA property or rights-of-ways	410	1.5	52	78	1,560
What information must be provided for billing purposes	530	0.2	500	100	2,000
Requesting Payment Plans on bills	550	2	126	252	5,040
Establishing a carriage agreement (carrying third party water through our facilities)	605	1	3	3	60
Negotiating an irrigation incentive lease with the BIA	*610/615	6	21	126	2,520
Requesting annual assessment waiver	*710/715	1	135	135	2,700
Annual Totals			27,575	14,159	283,180

*New requests for information collection are marked by an asterisk.

We estimate that we service 6,539 users who submit information about 27,575 times a year. We estimate that the total annual hourly burden is 14,159 at an estimated cost of $283,180. The users mainly request water to be turned on or turned off. Users are not required to maintain records but may do so for business purposes. The information they submit is for the purpose of obtaining or retaining a benefit, namely irrigation water. While we do require personal information for the purpose of adhering to the controlling laws and regulations, we protect the information under the Privacy Act.

We invite comments on the information collection requirements in the proposed regulation. You may submit comments by telefacsimile at (202) 395–6566 or by e-mail at *OIRA_DOCKET@omb.eop.gov*. Please also send a copy of your comments to BIA at the location specified under the heading **ADDRESSES**. Note that requests for comments on the rule and the information collection are separate.

You can receive a copy of BIA's submission to OMB by contacting the person listed in the **FOR FURTHER INFORMATION CONTACT** section, or by requesting the information from the BIA Information Collection Clearance Officer, 625 Herndon Parkway, Herndon, VA 20171.

Comments should address:

(1) Whether the proposed collection of information is necessary for the proper performance of the Program, including the practical utility of the information to BIA;

(2) The accuracy of BIA's burden estimates;

(3) Ways to enhance the quality, utility, and clarity of the information collected; and

(4) Ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology.

Organizations and individuals who submit comments on the information collection requirements should be aware that BIA keeps such comments available for public inspection during regular business hours. If you wish to have your name and address withheld from public inspection, you must state this prominently at the beginning of any comments you make. BIA will honor your request to the extent allowable by law. However, this exemption does not apply to organizations or their representatives. We may also withhold this information for other reasons.

National Environmental Policy Act

This rule does not constitute a major Federal action significantly affecting the quality of the human environment and no detailed statement is required under the National Environmental Policy Act of 1969 (42 U.S.C. 4321–4370(d)).

Consultation and Coordination With Indian Tribal Governments (Executive Order 13175)

In accordance with the President's memorandum of April 29, 1994, "Government-to-Government Relations with Native American Tribal Governments" (59 FR 22951), Executive Order 13175, and 512 DM 2, we have identified potential effects on Indian trust resources and they are addressed in this rule. Consultation meetings have been held with the affected tribes and additional consultation is expected to take place during the public comment period. Accordingly:

a. We have consulted with the affected tribes.

b. We have consulted with tribes on a government-to-government basis and the consultations have been open and candid so that the affected tribes could fully evaluate the potential impact of the rule on trust resources.

c. We will consider tribal views in the final rule.

d. We have not consulted with the appropriate bureaus and offices of the Department about the potential effects of this rule on Indian tribes. Other Department bureaus and offices are not affected by this rule.

The BIA irrigation projects are vital components of the local agricultural economy of the reservations on which they are located. To fulfill its responsibilities to the tribes, tribal organizations, water user organizations, and the individual water users, the BIA communicates, coordinates, and consults on a continuing basis with these entities on issues of water delivery, water availability, costs of administration, operation, maintenance, and rehabilitation. This is accomplished at the individual irrigation projects by Project, Agency, and Regional representatives, as appropriate, in accordance with local protocol and procedures. The BIA Central Office held four consultation meetings for tribes and tribal members. Consultation meetings were held on August 24, 2004 and May 12, 2005 in Phoenix, Arizona, and on August 26, 2004 and May 10, 2005 in Billings, Montana. This notice is one component of the BIA's overall coordination and consultation process to provide notice and request comments from these entities.

Effects on the Nation's Energy Supply (Executive Order 13211)

In accordance with Executive Order 13211, this regulation does not have a significant effect on the nation's energy supply, distribution, or use. The revision to 25 CFR 171 will have no adverse effects on energy supply, distribution, or use (including a shortfall in supply, price increases, and increase use of foreign supplies) should the proposed revisions be implemented. This rule impacts irrigation projects that have little or no energy supply issues.

Clarity of This Regulation

Executive Order 12866 requires each agency to write regulations that are easy to understand. We invite your comments on how to make this rule easier to understand, including answers to questions such as the following:

(1) Are the requirements in the rule clearly stated?

(2) Does the rule contain technical language or jargon that interferes with its clarity?

(3) Does the format of the rule (grouping and order of sections, use of headings, paragraphing, etc.) aid or reduce its clarity?

(4) Would the rule be easier to understand if it were divided into more (but shorter) sections? (A "section" appears in bold type and is preceded by the symbol "§" and a numbered heading; for example, § 171.105 Does this part apply to me?)

(5) Is the description of the rule in the **SUPPLEMENTARY INFORMATION** section of the preamble helpful in understanding the proposed rule?

(6) What else could we do to make the rule easier to understand?

Send a copy of any comments that concern how we could make this rule easier to understand to: Office of Regulatory Affairs, Department of the Interior, Room 7229, 1849 C Street, NW., Washington, DC 20240. You may also e-mail the comments to this address: *Exsec@ios.doi.gov.*

Public Comment Solicitation

Our policy is to give the public an opportunity to participate in the rulemaking process by submitting written comments to us regarding proposed rules. We will consider all comments received during the public comment period. We will determine necessary revisions and issue the final rule. Please refer to the **ADDRESSES** section of this document for submission of your written comments regarding this proposed rule.

Our practice is to make comments, including names and home addresses of respondents, available for public review during regular business hours. Individual respondents may request that we withhold their home address from the rulemaking record. We will honor the request to the extent allowable by law. There also may be circumstances in which we would withhold from the rulemaking record a respondent's identity, as allowable by law. If you wish us to withhold your name and/or address, you must state this prominently at the beginning of your comment. However, we will not consider anonymous comments. We will make all submissions from organizations or businesses, and from individuals identifying themselves as representatives or officials of organizations or businesses, available for public inspection in their entirety.

List of Subject in 25 CFR Part 171

Indians—lands, Irrigation.

Dated: March 15, 2006.

Michael D. Olsen,

Acting Principal Deputy Assistant Secretary—Indian Affairs.

Editors Note: This document was received at the Office of the Federal Register on July 12, 2006.

For the reasons set out in the preamble, the Bureau of Indian Affairs proposes to revise part 171 of Title 25

of the Code of Federal Regulations as follows:

PART 171—IRRIGATION OPERATION AND MAINTENANCE

Subpart A—General Provisions

Subpart B—Irrigation Service

Subpart C—Water Use

Subpart D—Irrigation Facilities

Subpart E—Financial Matters: Assessments, Billing, and Collections

Subpart F—Records, Agreements, and Other Matters

Subpart G—Non-Assessment Status

Authority: 25 U.S.C. 2; 25 U.S.C. 9; 25 U.S.C. 13; 25 U.S.C. 381; Act of April 4, 1910, 36 Stat. 270, as amended (codified at 25 U.S.C. 385); 25 U.S.C. 386a; Act of June 22, 1936, 49 Stat. 1803 (codified at 25 U.S.C. 389 *et seq.*).

Subpart A—General Provisions

§ 171.100 What are some of the terms I should know for this part?

Annual Assessment Waiver means a mechanism for us to waive your annual operation and maintenance assessment under certain specified circumstances.

Annual operation and maintenance assessment means the charges you must pay us for our costs of administration, operation, maintenance, and rehabilitation of the irrigation facility servicing your farm unit.

Annual operation and maintenance assessment rate means the per acre charge we establish for the irrigation facility servicing your farm unit.

Assessable acres (see *Total assessable acres*).

Authorized use means your use of water delivered by us that supports irrigated agriculture, livestock, Carriage Agreements or other uses defined by laws, regulations, treaty, compact, judicial decree, the river regulatory plan, or other authority.

BIA means the Bureau of Indian Affairs within the United States Department of the Interior.

Bill means our statement to you of the assessment charges and/or fees you owe the United States for administration, operation, maintenance, rehabilitation, and/or construction of the irrigation facility servicing your farm unit.

Carriage Agreement means a legally binding contract we enter into:

(1) to convey third party water through our irrigation facilities; or

(2) to convey our water through third party facilities.

Construction assessment means the periodic charge we assess you to repay us the funds we used to construct our irrigation facilities serving your farm unit that are determined to be reimbursable under applicable statutes.

Customer means any person or entity to whom we provide irrigation service.

Ditch, see *Farm ditch* or *Service ditch*.

Due date means the date printed on your bill, 30 days after which your bill becomes past due.

Facility, see *Irrigation facility*.

Farm ditch means a ditch or canal, which you own, operate, maintain, and rehabilitate.

Farm unit means the smallest parcel of land for which we will establish a delivery point. The size of farm units at our irrigation facilities is defined in the authorizing legislation for each irrigation facility, or in the absence of such legislation, we will define the farm unit size.

I, me, my, you, and *your* means all interested parties, especially persons or entities to which we provide irrigation service and receive use of our irrigation facilities, such as irrigators, landowners, lessees, irrigator organizations, irrigation districts, or other entities affected by this part and our supporting policies, manuals, and handbooks.

Idle lands means lands that are not currently farmed because they have characteristics that limit crop production.

Incentive Agreement means a written agreement between you and us that allows us to waive your annual operation and maintenance assessment, for up to 3 years, when you agree to improve idle lands and we determine

that it is in the best interest of our irrigation facility.

Irrigation bill, see *Bill*.

Irrigation district, see *Representative organization*.

Irrigation facility means all structures and appurtenant works for the delivery, diversion, and storage of irrigation water. These facilities may be referred to as projects, systems, or irrigation areas.

Irrigation service means the full range of services we provide customers, including, but not limited to, administration, operation, maintenance, and rehabilitation of our irrigation facilities.

Irrigation water or *water* means water we deliver through our facilities for the general purpose of irrigation and other authorized purposes.

Irrigator, see *Customer*.

Landowner means a person or entity that owns fee, tribal trust, and/or individual allotted trust lands.

Leaching Service means our delivery of water to you at your request for the purpose of transporting salts below the root zone of a farm unit.

Lessee means any person or entity that holds a lease approved by us on lands that we provide irrigation service to.

Must means an imperative or mandatory act or requirement.

My land and *your land* mean all or part of your farm unit.

Obstruction means anything permanent or temporary that blocks, hinders, impedes, stops or cuts off our facilities or our ability to perform the services we determine necessary to provide service to our customers.

Organization, see *Representative organization*.

Past due bill means a bill that has not been paid within 30 days of the due date stated on your bill. Beginning on the 31st day after the due date we will begin assessing additional charges.

Permanently non-assessable acres (PNA) means lands that the Secretary of the Interior has determined to be permanently non-irrigable pursuant to the standards set out in 25 U.S.C. 389h.

Representative organization or *organization* means a legally established organization representing your interests that confers with us on how we provide irrigation service at a particular irrigation facility.

Service(s), see *Irrigation service*.

Service Area means lands designated by us to be served by one of our irrigation facilities.

Service ditch means a ditch or canal which we own, administer, operate, maintain, and rehabilitate that we use to provide irrigation service to your farm unit.

Soil salinity means soils containing high salt content that limit crop production.

Structures (see *Irrigation facilities*).

Subdivision means a farm unit that has been subdivided into smaller parcels.

Supplemental water means water available for delivery by our irrigation facilities beyond the quantity necessary to provide all project customers requesting water with the per-acre water duty established for that project.

Taxpayer identifying number means either your Social Security Number or your Employer Identification Number.

Temporarily non-assessable acres (TNA) means lands that the Secretary of the Interior has determined to be temporarily non-irrigable pursuant to the standards set out in 25 U.S.C. 389a.

Total assessable acres means the total acres of land served by one of our irrigation facilities to which we assess operation and maintenance charges. The *Total assessable acres* within the service area of an irrigation facility do not include those acres of land that are designated PNA or TNA, nor those acres of land granted an Annual Assessment Waiver.

Trust or *restricted land* or *land in trust* or *restricted status*, refer to 25 CFR 151.2, "definitions."

Urgency means a situation we have determined that may adversely impact our irrigation facilities, operation, or other irrigation activities and/or affect public safety or damage property and/or equipment.

Wastewater means irrigation water returned to our irrigation facilities.

Water, see *Irrigation water*.

Water delivery is an activity that is part of the irrigation service we provide to our customers when water is available.

Water duty means the amount of water, in acre-feet per acre, necessary for full-service irrigation. This value is established by decree, compact, or other legal document, or by specialized engineering studies.

Water user, see *Customer*.

We, *us*, and *our* means the United States Government, the Secretary of the Interior, the BIA, and all who are authorized to represent us in matters covered under this part.

§ 171.105 Does this part apply to me?

This part applies to you if you own or lease land within an irrigation project where we assess fees and collect monies to administer, operate, maintain, and rehabilitate project facilities.

§ 171.110 How does BIA administer its irrigation facilities?

(a) We administer our irrigation facilities by enforcing the applicable statutes, regulations, Executive Orders, directives, Indian Affairs Manual, the Irrigation Handbook, and other written policies, procedures, directives, and practices to ensure the safe, reliable, and efficient administration, operation, maintenance, and rehabilitation of our facilities. Such enforcement can include refusal or termination of irrigation services to you.

(b) We will cooperate and consult with you, when appropriate and time allows, on irrigation activities and policies of the particular irrigation facility serving you.

§ 171.115 Can I and other irrigators establish representative organizations?

Yes. You and other irrigators may establish a representative organization under applicable law, to represent your interests for the particular irrigation facilities serving you.

§ 171.120 What are the authorities and responsibilities of a representative organization?

(a) A legally established organization representing you may make rules, policies, and procedures it may find necessary to administer the activities it is authorized to perform.

(b) An organization must not make rules, policies, or procedures that conflict with our regulations, or any of our other written policies, procedures, directives and manuals.

(c) If this organization collects operation and maintenance assessments and construction assessments on your behalf to be paid to us, it must pay us all your past and current operation and maintenance and construction assessment charges before we will provide irrigation service to you.

§ 171.125 Can I appeal BIA decisions?

(a) You may appeal our decisions in accordance with procedures set out in 25 CFR 2, unless otherwise prohibited by law.

(b) Until your appeal is resolved, you must conform to our requirements before we will provide irrigation service to you.

§ 171.130 Who can I contact if I have any questions about these regulations or my irrigation service?

Contact the local irrigation project where you receive service or want to apply for service. If your questions are not addressed to your satisfaction at the local project level, you may contact the appropriate BIA Regional Office.

§ 171.135 Where do I submit written information, requests, or appeals?

You must submit any required or requested written information, requests, or appeals to the irrigation project servicing your farm unit.

§ 171.140 Information Collection.

The information collection requirements contained in this part have been approved by the Office of Management and Budget under 44 U.S.C. *et seq.* and assigned clearance number 1076–xxxx. This information collection is specifically found in §§ 171.200, 171.225, 171.305, 171.310, 171.405, 171.410, 171.530, 171.550, 171.600, 171.605, 171.610, 171.615, 171.710, and 171.715. A Federal agency may not conduct or sponsor, and you are not required to respond to, a collection of information unless it displays a currently valid OMB control number.

Subpart B—Irrigation Service

§ 171.200 How do I request irrigation service from the BIA?

(a) You must request service from the irrigation facility servicing your farm unit.

(b) Your request must contain at least the following information:

(1) Your full legal name;

(2) Where you want service;

(3) The time and date you want service to start;

(4) How long you want service;

(5) The rate of water flow you want, if available;

(6) How many acres you want to irrigate; and

(7) Any additional information required by the project office responsible for providing your irrigation service.

(c) You must request supplemental water in accordance with the project guidelines established by the specific project providing your irrigation service.

§ 171.205 How much water will I receive?

The amount of water you receive will be based on your request, your legal entitlement to water and the available water supply.

§ 171.210 Where will BIA provide my irrigation service?

(a) We will provide service to your farm unit at a single delivery point which we designate.

(b) At our discretion, we may establish additional delivery points when:

(1) We determine it is impractical to deliver water to your farm unit from a single delivery point;

(2) You agree in writing to be responsible for all costs to establish an additional delivery point;

(3) You pay us our costs prior to our establishing an additional delivery point; and

(4) Any work accomplished under this section does not disrupt our service to other customers without their written agreement.

(c) We may establish your delivery point(s) at a well head.

§ 171.215 What if the elevation of my farm unit is too high to receive irrigation water?

(a) We will not change our service ditch level to provide service to you.

(b) You may install, operate, and maintain your own facilities, at your cost, to provide service to your land:

(1) From a delivery point we designate; and

(2) In accordance with specifications we approve.

§ 171.220 What must I do to my farm unit to receive irrigation service?

You must meet the following requirements for us to provide service:

(a) Put water we deliver to authorized uses;

(b) Make sure your farm ditch has sufficient capacity to carry the water we deliver; and

(c) Properly operate, maintain, and rehabilitate your farm ditch.

§ 171.225 What must I do to receive irrigation service to my subdivided farm unit?

In order to receive irrigation service, you must:

(a) Provide us a copy of the recorded plat or map of the subdivision which shows us how the irrigation water will be delivered to the irrigable acres;

(b) Pay for any extensions or alterations to our facilities that we approve to serve the subdivided units;

(c) Construct, at your cost, any facilities within your subdivided farm unit; and

(d) Operate and maintain, at your cost, any facilities within your subdivided farm unit.

§ 171.230 What are my responsibilities for wastewater?

(a) You must convey your wastewater back to our facilities for drainage, at your cost.

(b) You must return wastewater to our facilities only at locations we designate and in a manner we approve.

(c) You may share wastewater facilities with other customers, but you remain responsible for conveying your wastewater to our facilities.

(d) You must not allow your wastewater to flow or collect on our facilities or roads, except at locations we designate and in a manner we approve.

(e) If you fail to comply with this section, we may withhold services to you.

Subpart C—Water Use

§ 171.300 Does BIA restrict my water use?

(a) You must not interfere with or alter our service to you without our prior written authorization; and

(b) You must only use water we deliver for authorized uses. We may withhold services if you use water for any other purpose.

§ 171.305 Will BIA provide leaching service to me?

(a) We may provide you leaching service if:

(1) You submit a written plan that documents how soil salinity limits your crop production and how leaching service will correct the problem;

(2) We approve your plan in writing; and

(3) Your irrigation bills are not past due.

(b) Leaching service will only be available during the timeframe established by your irrigation facility.

(c) We reserve the right to terminate this service if we determine you are not complying with paragraph (a) of this section.

§ 171.310 Can I use water delivered by BIA for domestic or livestock purposes?

Yes. If we determine it will not:

(a) Interfere with the operation, maintenance, or rehabilitation of our facilities;

(b) Be detrimental to or jeopardize our facilities;

(c) Adversely affect the water supply; or

(d) Cause additional costs to us that we do not agree to in writing.

Subpart D—Irrigation Facilities

§ 171.400 Who is responsible for structures on a BIA irrigation project?

(a) We may build, operate, maintain, rehabilitate and/or remove structures, including bridges and other crossings on our irrigation projects.

(b) We may build other structures for your private use during the construction or extension of an irrigation project. We may charge you for structures built for your private use under this section, and we may require you to maintain them.

(c) If we require you to maintain a structure and you do not do so to our satisfaction, we may remove it, or perform the necessary maintenance, and we will bill you for our costs.

§ 171.405 Can I build my own structure or take over responsibility of a BIA structure?

You may build a structure on our irrigation facility for your private use or take responsibility of one of our structures, under a written agreement between you and us, which:

(a) Relieves us from any future liability or responsibility for the structure;

(b) Relieves us from any future costs incurred for maintaining the structure;

(c) Describes what is granted by us and accepted by you; and

(d) Provides that if you do not regularly use a structure for a period of time that we have determined, or you do not properly maintain and rehabilitate the structure, we will notify you in writing that:

(1) You must either remove it or correct any unsafe condition;

(2) If you do not comply with our notice, we may remove the structure and you must reimburse us our costs; and

(3) We may modify, close or remove your structure without notice due to an urgency we have identified.

§ 171.410 Can I install a fence on a BIA irrigation project?

Yes. Fences are considered structures and may be installed in compliance with § 171.405.

§ 171.415 Can I place an obstruction on a BIA irrigation project?

No. You may not place obstructions on BIA irrigation projects.

(a) If you do so, we will notify you in writing that you must remove it.

(b) If you do not remove your obstruction in compliance with our notice, we will remove it and we will bill you for our costs.

(c) We can remove your obstruction without notice due to an urgency we have identified.

§ 171.420 Can I dispose of sewage, trash or other refuse on a BIA irrigation project?

No. Sewage, trash, or other refuse are considered obstructions and must be removed in accordance with § 171.415.

Subpart E—Financial Matters: Assessments, Billing, and Collections

§ 171.500 How does BIA determine the annual operation and maintenance assessment rate for the irrigation facility servicing my farm unit?

(a) We calculate the annual operation and maintenance assessment rate by estimating the following annual costs and then dividing by the total assessable acres for your irrigation facility:

(1) Personnel salary and benefits for the facility engineer/manager and employees under their management control;

(2) Materials and supplies;

(3) Vehicle and equipment repairs;

(4) Equipment costs, including lease fees;

(5) Depreciation;

(6) Acquisition costs;

(7) Maintenance of a reserve fund available for contingencies or emergency costs for, and insuring, reliable operation of the irrigation facility infrastructure;

(8) Maintenance of a vehicle and heavy equipment replacement fund;

(9) Systematic rehabilitation and replacement of project facilities;

(10) Contingencies for unknown costs and omitted budget items; and

(11) Other costs we determine necessary to properly perform the activities and functions characteristic of an irrigation facility.

(b) Annual operation and maintenance assessment rates may be lowered through the exercise of our discretion when items listed in (a) of this section are adjusted pursuant to our authority under 25 U.S.C. 385, 386a and 389.

(c) If you subdivide your farm unit, you may be subject to a higher annual operation and maintenance assessment rate, which we publish annually in the **Federal Register**.

(d) At projects where supplemental water is available, the calculation of your annual operation and maintenance assessment rate may take into consideration the total estimated annual amount to be collected for supplemental water deliveries.

§ 171.505 How does BIA calculate my annual operation and maintenance assessment?

(a) We calculate your annual operation and maintenance assessment by multiplying the total assessable acres of your land within the service area of our irrigation facility by the annual operation and maintenance assessment rate we establish for that facility.

(b) We will not assess lands that have been re-classified as either permanently non-assessable (PNA) or temporarily non-assessable (TNA) or lands that have been granted an Annual Assessment Waiver.

(c) If your lands are under an approved Incentive Agreement, we may waive your assessment as described in the Incentive Agreement (See § 171.610).

(d) Some irrigation facilities may charge a minimum operation and maintenance assessment. If the irrigation facility serving your farm unit charges a minimum operation and maintenance assessment that is more than your assessment calculated by the method described in subpart (a) of this section, you will be charged the minimum operation and maintenance assessment. We provide public notice of any minimum operation and maintenance assessments annually in the **Federal Register** (See § 171.565).

§ 171.510 How does BIA calculate my annual operation and maintenance assessment if supplemental water is available on the irrigation facility servicing my farm unit?

(a) For projects where supplemental water is available, and you request and receive supplemental water, your assessment will include two components: A base rate, which is for your per-acre water duty delivered to your farm unit; and a supplemental water rate, which is for water delivered to your farm unit in addition to your per acre water duty.

(b) We publish base and supplemental water rates annually in the **Federal Register**. The base and supplemental water rates are established to recover the costs identified in § 171.500(a) of this subpart.

(c) If your project has established a supplemental water rate, and you request and receive supplemental water, we will calculate your total annual operation and maintenance assessment by multiplying the total assessable acres of your land within the service area of our irrigation facility by the annual operation and maintenance assessment rate we establish for that facility plus, the actual quantity of supplemental water you request and we deliver (in acre-feet) times the supplemental water rate established for that facility.

§ 171.515 Who will BIA bill?

(a) We will bill the landowner, unless:

(1) The land is leased under a lease approved by us, in which case we will bill the lessee, or

(2) The landowner(s) is represented by a representative organization that collects annual operation and maintenance assessments on behalf of its members and the representative organization makes a direct payment to us on your behalf.

(b) If you own or lease assessable lands within a BIA irrigation facility, you will be billed for annual operation and maintenance assessments, whether you request water or not, unless specified in § 171.505(b).

§ 171.520 How will I receive my bill and when do I pay it?

(a) You will receive your bill in the mail at the address of record you provide us.

(b) You should pay your bill no later than the due date stated on your bill.

(c) You will not receive a bill for supplemental water. You must pay us in advance at the supplemental water rate established for you project published annually in the **Federal Register**.

§ 171.525 How do I pay my bill?

(a) You can pay your bill by:

(1) Personally going to the local office of the irrigation facility authorized to receive your payment during normal business hours;

(2) Depositing your payment in an authorized drop box, if available, at the local office of the irrigation facility; or

(3) Mailing your payment to the address indicated on your bill.

(b) Your payment must be in the form of:

(1) Check or money order in the mail or authorized drop box; or

(2) Cash, check or money order if you pay in person.

§ 171.530 What information must I provide BIA for billing purposes?

We must obtain certain information from you to ensure we can properly bill, collect, deposit and account for money you owe the United States. At a minimum, this information is:

(a) Your full legal name;

(b) Your correct mailing address; and

(c) Your taxpayer identifying number.

§ 171.535 Why is BIA collecting this information from me?

(a) As part of doing business with you, we must collect enough information from you to properly bill and service your account.

(b) We are required to collect your taxpayer identifying number under the authority of, and as prescribed in, the Debt Collection Improvement Act of 1996, Public Law 104–134 (110 Stat. 1321–364).

§ 171.540 What can happen if I do not provide this information?

We will not provide you irrigation service.

§ 171.545 What can happen if I don't pay my bill on time?

(a) We will not provide you irrigation service until:

(1) Your bill is paid; or

(2) You make arrangement for payment, pursuant to § 171.550 of this part.

(b) If you do not pay your bill prior to the close of business on the 30th day after the due date, we consider your bill past due, send you a notice, and assess you the following:

(1) Interest, as required by 31 U.S.C. 3717. Interest will accrue from the original due date stated on your bill.

(2) An administrative fee, as required by 31 CFR 901.9.

(c) If you do not pay your bill prior to the close of business of the 90th day after the due date, we will assess you a penalty, as required by 31 CFR 901.9(d). Penalties will accrue from the original due date stated on your bill.

(d) We will forward your past due bill to the United States Treasury no later than 180 days after the original due date, as required by 31 CFR 901.1, "Aggressive agency collection activity."

§ 171.550 May I arrange a Payment Plan if I cannot pay the full amount due on my bill?

We may approve a Payment Plan if:

(a) You are a landowner and your land is not leased;

(b) You certify that you are financially unable to make a lump sum payment;

(c) You provide additional information we request, which may include information identified in 31 CFR 901.8, "Collection in installments"; and

(d) You sign our Payment Plan containing terms and conditions we specify.

§ 171.555 What additional costs will I incur if I am granted a Payment Plan?

You will incur the following costs:

(a) An administrative fee to process your Payment Plan, as required by 31 CFR 901.9.

(b) Interest, accrued on your unpaid balance, in accordance with § 171.545.

§ 171.560 What if I fail to make payments as specified in my Payment Plan?

(a) We will discontinue irrigation service until your bill is paid in full;

(b) You will be subject to the provisions in § 171.555; and

(c) You will be ineligible for Payment Plans for the next 6 years.

§ 171.565 How will I know if BIA plans to adjust my annual operation and maintenance assessment rate?

(a) We provide public notice of our proposed rates annually in the **Federal Register.**

(b) You may contact the irrigation facility servicing your farm unit.

§ 171.570 What is the Federal Register and where can I get it?

(a) The **Federal Register** is the official daily publication for Rules, Proposed Rules, and Notices of official actions by Federal agencies and organizations, as well as Executive Orders and other Presidential Documents and is produced by the United States Government Printing Office (GPO).

(b) You can get publications of the **Federal Register:**

(1) By going on the World Wide Web at *http://www.gpo.gov;*

(2) By writing to the GPO, Superintendent of Documents, P.O. Box 371954, Pittsburgh, Pennsylvania 15250–7954; or

(3) By calling them at (202) 512–1530.

§ 171.575 Can BIA change my annual operation and maintenance assessment without notifying me first?

Yes. If we determine in writing we have a significant uncontrolled cost change that requires an immediate adjustment we will change your annual operation and maintenance assessment without notifying you first. However, we will make every reasonable effort to comply with § 171.565 as soon as practicable.

Subpart F—Records, Agreements, and Other Matters

§ 171.600 What information is collected and retained on the irrigation service I receive?

We will collect and retain at least the following information as part of our record of the irrigation service we have provided you:

(a) Your name;

(b) Delivery point(s) where service was provided;

(c) Beginning date and time of your irrigation service;

(d) Ending date and time of your irrigation service; and

(e) Amount of water we delivered to your farm unit.

§ 171.605 Can I establish a Carriage Agreement with the BIA?

(a) We may agree in writing to carry third party water through our facilities to your lands not served by our facilities if we have determined that our facilities have adequate capacity to do so.

(b) If we determine that carrying water in accordance with paragraph (a) of this section is jeopardizing our ability to provide irrigation service to the lands we are required to serve, we will terminate the Agreement.

(c) We may enter into an agreement with a third party to provide service through their facilities to your isolated assessable lands.

(d) You must pay us all administrative, operating, maintenance, and rehabilitation costs associated with any agreement established under this section before we will convey water.

(e) We will notify you in writing no less than 5 days before terminating a Carriage Agreement established under this section.

(f) We may terminate a Carriage Agreement without notice due to an urgency we have identified.

§ 171.610 May I arrange an Incentive Agreement if I want to farm idle lands?

We may approve an Incentive Agreement if:

(a) You request one in writing at least 90 days prior to the beginning of the irrigation season that includes a detailed plan to improve the idle lands, which contains at least the following:

(1) A description of specific improvements you will make, such as clearing, leveling, or other activities;

(2) The estimated cost of the improvements you will make;

(3) The time schedule for your proposed improvements;

(4) Your proposed schedule for water delivery, if necessary; and

(5) Justification for use of irrigation water during the improvement period.

(b) You sign our Incentive Agreement containing terms and conditions we specify.

§ 171.615 Can I request improvements to BIA facilities as part of my Incentive Agreement?

Yes. You may request and we may agree to make improvements as part of your Incentive Agreement that we determine are in the best interest of the irrigation facility servicing your farm unit.

Subpart G—Non-Assessment Status

§ 171.700 When do I not have to pay my annual operation and maintenance assessment?

You do not have to pay your annual operation and maintenance assessment for your land(s) within the service area of your irrigation facility when:

(a) We grant you an Annual Assessment Waiver; or

(b) Your land is re-designated as permanently non-assessable or temporarily non-assessable.

§ 171.705 What criteria must be met for my land to be granted an Annual Assessment Waiver?

For your land to be granted an Annual Assessment Waiver, we must determine that our irrigation facilities are not capable of delivering adequate irrigation water to your farm unit. Inadequate water supply due to natural conditions or climate is not justification for us to grant an Annual Assessment Waiver.

§ 171.710 Can I receive irrigation water if I am granted an Annual Assessment Waiver?

No. Water will not be delivered in any quantity to your farm unit if you have been granted an Annual Assessment Waiver.

§ 171.715 How do I obtain an Annual Assessment Waiver?

For your land to be granted an Annual Assessment Waiver, you must:

(a) Send us a request in writing to have your land granted an Annual Assessment Waiver.

(b) Submit your request prior to the bill due date for the year for which you are requesting the Annual Assessment Waiver; and

(c) Receive our approval in writing.

§ 171.720 For what period does an Annual Assessment Waiver apply?

Annual Assessment Waivers are only valid for the year in which they are granted. To obtain an Annual Assessment Waiver for a subsequent year, you must reapply.

[FR Doc. E6–11293 Filed 7–14–06; 8:45 am]

BILLING CODE 4310–W7–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[REG–146459–05]

RIN 1545–BF04

Designated Roth Accounts Under Section 402A; Hearing

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Change of location for public hearing.

SUMMARY: This document provides a change of location for a public hearing on proposed regulations under sections 402(g), 402A, 403(b), and 408A of the Internal Revenue Code relating to designated Roth accounts.

DATES: The public hearing is being held on Wednesday, July 26, 2006, at 10 a.m.

ADDRESSES: The public hearing was originally being held in the IRS Auditorium, Internal Revenue Building, 1111 Constitution Avenue, NW., Washington, DC. The hearing location has changed. The public hearing will be held in the IRS Auditorium (New Carrollton location), 5000 Ellin Road, Lanham MD 20706.

FOR FURTHER INFORMATION CONTACT: Guy R. Traynor, (202) 874–9752 or Richard Hurst at *Richard.A.Hurst@irscounsel.treas.gov.*

SUPPLEMENTARY INFORMATION: The subject of the public hearing is a notice of proposed rulemaking (REG–146459–05) that was published in the **Federal Register** on Thursday, January 26, 2006 (71 FR 4320).

The rules of 26 CFR 601.601(a)(3) apply to the hearing. Persons who submitted written comments by April 26, 2006, and outlines by July 5, 2006, may present oral comments at the hearing.

A period of 10 minutes is allotted to each person for presenting oral comments. The IRS will prepare an agenda containing the schedule of speakers. Copies of the agenda will be made available, free of charge, at the hearing.

Guy R. Traynor,

Chief, Publications and Regulations Branch, Legal Processing Division, Associate Chief Counsel (Procedure and Administration).

[FR Doc. 06–6260 Filed 7–12–06; 2:37 pm]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Alcohol and Tobacco Tax and Trade Bureau

27 CFR Part 9

[Notice No. 60]

RIN 1513–AB22

Proposed Establishment of the Snake River Valley Viticultural Area (2005R–463P)

AGENCY: Alcohol and Tobacco Tax and Trade Bureau, Treasury.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Alcohol and Tobacco Tax and Trade Bureau proposes to establish the 8,263-square mile "Snake River Valley" viticultural area in southwestern Idaho and southeastern Oregon. We designate viticultural areas to allow vintners to better describe the origin of their wines and to allow consumers to better identify wines they may purchase. We invite comments on this proposed addition to our regulations.

DATES: We must receive written comments on or before September 15, 2006.

ADDRESSES: You may send comments to any of the following addresses:

- Director, Regulations and Rulings Division, Alcohol and Tobacco Tax and Trade Bureau, Attn: Notice No. 60, P.O. Box 14412, Washington, DC 20044–4412.
- 202–927–8525 (facsimile).
- *nprm@ttb.gov* (e-mail).
- *http://www.ttb.gov/alcohol/rules/index.htm.* An online comment form is posted with this notice on our Web site.
- *http://www.regulations.gov* (Federal e-rulemaking portal; follow instructions for submitting comments).

You may view copies of this notice, the petition, the appropriate maps, and any comments we receive about this proposal by appointment at the TTB Information Resource Center, 1310 G Street, NW., Washington, DC 20220. To make an appointment, call 202–927–2400. You may also access copies of the notice and comments online at *http://www.ttb.gov/alcohol/rules/index.htm*.

See the **Public Participation** section of this notice for specific instructions and requirements for submitting comments, and for information on how to request a public hearing.

FOR FURTHER INFORMATION CONTACT: N.A. Sutton, Regulations and Rulings Division, Alcohol and Tobacco Tax and Trade Bureau, 925 Lakeville St., No. 158, Petaluma, CA 94952; telephone 415–271–1254.

SUPPLEMENTARY INFORMATION:

Background on Viticultural Areas

TTB Authority

Section 105(e) of the Federal Alcohol Administration Act (the FAA Act, 27 U.S.C. 201 *et seq.*) requires that alcohol beverage labels provide consumers with adequate information regarding product identity and prohibits the use of misleading information on those labels. The FAA Act also authorizes the Secretary of the Treasury to issue regulations to carry out its provisions. The Alcohol and Tobacco Tax and Trade Bureau (TTB) administers these regulations.

Part 4 of the TTB regulations (27 CFR part 4) allows the establishment of definitive viticultural areas and the use of their names as appellations of origin on wine labels and in wine advertisements. Part 9 of the TTB regulations (27 CFR part 9) contains the list of approved viticultural areas.

Definition

Section 4.25(e)(1)(i) of the TTB regulations (27 CFR 4.25(e)(1)(i)) defines a viticultural area for American wine as a delimited grape-growing region distinguishable by geographical features, the boundaries of which have been recognized and defined in part 9 of the regulations. These designations allow vintners and consumers to attribute a given quality, reputation, or other characteristic of a wine made from grapes grown in an area to its geographical origin. The establishment of viticultural areas allows vintners to describe more accurately the origin of their wines to consumers and helps consumers to identify wines they may purchase. Establishment of a viticultural area is neither an approval nor an endorsement by TTB of the wine produced in that area.

Requirements

Section 4.25(e)(2) of the TTB regulations outlines the procedure for proposing an American viticultural area and provides that any interested party may petition TTB to establish a grape-growing region as a viticultural area. Section 9.3(b) of the TTB regulations requires the petition to include

- Evidence that the proposed viticultural area is locally and/or nationally known by the name specified in the petition;
- Historical or current evidence that supports setting the boundary of the proposed viticultural area as the petition specifies;
- Evidence relating to the geographical features, such as climate, soils, elevation, and physical features, that distinguish the proposed viticultural area from surrounding areas;
- A description of the specific boundary of the proposed viticultural area, based on features found on United States Geological Survey (USGS) maps; and
- A copy of the appropriate USGS map(s) with the proposed viticultural area's boundary prominently marked.

Snake River Valley Petition

The wine grape growers of the Snake River Valley in Idaho, the Idaho Grape Growers and Wine Producers Commission, and the Idaho Department of Commerce and Labor, collectively referred to as the "petitioner," have submitted a petition to establish the 8,263-square mile Snake River Valley viticultural area. The proposed viticultural area includes Ada, Adams, Boise, Canyon, Elmore, Gem, Gooding, Jerome, Owyhee, Payette, Twin Falls, and Washington Counties in southwestern Idaho and Baker and Malheur Counties in southeastern Oregon. The proposed boundary encompasses 15 wineries, 46 vineyards, and 1,107 acres of commercial vineyard production. We summarize below the supporting evidence presented with the petition.

Name Evidence

The petitioner provided multiple sources of "Snake River Valley" name evidence for the proposed viticultural area. References include winemaking and vineyards, agriculture, early regional exploration, and other name uses.

The Fall 2001 edition of Wine Press Northwest ran an article titled "Idaho Wineries at a Glance," which says, "At first glance, the Snake River Valley seems an idyllic place to grow grapes* * *" and continues to explain that most of the grapes are grown in the Snake River Valley area west of Boise, Idaho. The February 17, 2005, edition of Wine Press Northwest ran an article describing the Snake River Valley as a beautiful area in southwestern Idaho. The article noted that most of the Idaho wineries and vineyards are at elevations between 1,500 and 2,500 feet in the western portion of the Snake River Valley.

The official Web site of the State of Idaho has a link to the history of Idaho, noting that in 1811 the Pacific Fur Company expedition explored the Snake River Valley and discovered the Boise Valley, which is within the boundary of the proposed viticultural area. An undated Sunset Magazine article, "The Snake River Valley of Idaho-Eastern Oregon," discusses the significant agricultural production in the Snake River Valley of Idaho and eastern Oregon.

The USGS maps used to identify the proposed Snake River Valley viticultural area prominently identify the Snake River at the low elevations of the proposed viticultural area. The American Automobile Association Western States/Provinces map, dated February 2003 through May 2005, shows the Snake River flowing from its headwaters in Wyoming, through Utah, Idaho, and Oregon, and into Washington to where it joins the Columbia River near Pasco and Kennewick.

Boundary Evidence

The proposed Snake River Valley viticultural area covers portions of southwestern Idaho and southeastern Oregon. The basis for the proposed boundaries, the petitioner explains, is the extent of ancient Lake Idaho, a deep lake that filled the western part of the Snake River Valley approximately 4 million years ago. The proposed boundary line, with a maximum elevation of 1,040 meters, or 3,412 feet, surrounds the now dry, ancient Lake Idaho at the highest elevation conducive to viticulture, according to the petitioner.

The Snake River Plain, a crescent-shaped belt of lava and sediment ranging from 40 to 62 miles wide, extends about 372 miles in length across southern Idaho, according to the petitioner. The geology of the western portion of the Snake River Plain, the petitioner continues, has lower elevations and a rift-bounded basin, which contrast to the higher elevations of the eastern section of the Snake River Plain. Also, the colder and drier climate

of the eastern area is not conducive to successful viticulture, according to the petitioner, unlike the warmer weather and lower elevations of ancient Lake Idaho.

An April 21, 1997, article, "Hydrogeologic Framework of the Boise Valley of Southwest Idaho," by Spencer H. Wood, Department of Geosciences, Boise State University, describes the Snake River Plain as a great geologic bathtub with layers of mud sediment and interconnected layers of sand. The depth of the basin plain averages 3,500 feet but extends to 6,000 feet, according to the article. Also, in prehistoric times the ancient Lake Idaho was, in places, 800 feet deep and covered 5,000 square miles. In modern times this region is a flat, semiarid plain that is irrigated for agriculture with water from the Boise River and with ground water, according to the article.

Distinguishing Features

The proposed Snake River Valley viticultural area, the petitioner explains, includes a series of distinguishing features. Its topography includes elevations lower than the surrounding areas and a fault-bounded, rift basin geography, according to the petitioner. Also, the area is primarily underlain by sedimentary rock. The comparatively warm climate of the proposed Snake River Valley viticultural area, the petitioner adds, creates better grape-growing conditions than those in the surrounding higher elevations and the Snake River Valley in eastern Idaho.

Geology

The geologic history of the proposed Snake River Valley viticultural area, the petitioner states, includes flood basalts, northwest-trending structures, loess mantles, and outburst floods. The ancient Lake Idaho, according to the petitioner, extends 149 miles northwest to southeast, from the Oregon-Idaho State line to west of Twin Falls, Idaho, as a system of lakes and flood plains.

North of the proposed Snake River Valley viticultural area boundary line, the petitioner explains, are Cretaceous granites of the Idaho Batholith, Eocene volcanoes, older sedimentary rocks, and volcanic flows. Also, to the south of the proposed boundary line, volcanic rocks overlie the southern extension of the granite basement.

Regional Summary

The petitioner includes a map of the Snake River Plain Aquifer System and information modified from the "Ground Water Atlas of the United States: Idaho, Oregon, Washington, U.S. Geological Survey Hydrologic Atlas HA 730–H, 1994." The map shows that the Western Plain, which is within the proposed Snake River Valley viticultural area, is underlain by aquifers in basaltic rock but mainly in unconsolidated (sedimentary) deposits. In contrast, the Eastern Plain, to the east of the proposed Snake River Valley viticultural area, is underlain predominantly by aquifers in Pliocene and younger basaltic rocks.

The petitioner includes a second map that documents the distribution of rock types in the Pacific Northwest States, based on information taken from the same USGS Hydrologic Atlas noted above. The proposed Snake River Valley viticultural area, according to the map, is underlain primarily by sedimentary rocks, distinguishing the area from basaltic and other igneous rocks in the surrounding regions.

Geography

Physical Features: The petitioner describes the ancient Lake Idaho as the physical focus and an important distinguishing feature of the proposed Snake River Valley viticultural area. Historically, the ancient Lake Idaho, the petitioner continues, was a trough-like structure of lakes. The proposed Snake River Valley viticultural area boundary encircles the now dry, ancient Lake Idaho, a low elevation, fault-bounded, rift basin with a relatively flat, sedimentary bottom, according to the petitioner. The surrounding areas, beyond the proposed boundary, have a mountainous topography with generally higher elevations.

Elevation: Low elevation, between 660 and 1,040 meters, or 2,165 and 3,412 feet, when compared to the surrounding mountains and the eastern portion of the Snake River Valley, is a significant distinguishing feature of the proposed Snake River Valley viticultural area, as shown on the USGS maps and described by the petitioner. Oxbow Dam, along the Snake River in Adams County, Idaho, lies at an elevation of 660 meters, or 2,165 feet, the petitioner explains, but the encircling proposed viticultural area boundary line generally adheres to an elevation of 1,040 meters, or 3,412 feet, according to the boundary outlined in the petition. The proposed boundary line deviates from its prescribed 1,040-meter elevation twice at the northernmost boundary on the McCall map and again along the western boundary of the Vale map. The petitioner explains that the 1,040-meter contour line, past the boundaries of the McCall and Vale maps, continues into regions not associated with the Snake River Valley or with viticulture. The region's viticulture, according to the petitioner, is successful between elevations of 664 and 950 meters, or 2,180 and 3,117 feet.

Mountains surrounding the western Snake River Valley region exceed 7,000 feet in elevation, especially to the east of the proposed viticultural area boundary line in the Boise National Forest, as shown on the Idaho City, Idaho, USGS map. The City of Twin Falls, Idaho, about 2½ miles southeast of the proposed Snake River Valley viticultural area's eastern boundary line, as shown on the USGS Twin Falls, Idaho, map, lies at an elevation of 3,729 feet, or about 320 feet above the proposed viticultural area boundary line.

The petitioner provides three topographic profiles of the proposed Snake River Valley viticultural area drawn from various points of the compass. The three profiles include (1) California Mountain, Oregon, to Bruneau, Idaho, (2) Oreana, Idaho, to Danskin Peak, Idaho, and (3) Marsing, Idaho, to Emmett, Idaho. The profiles show the lower elevations of the ancient Lake Idaho basin in comparison to the surrounding higher mountain elevations beyond the proposed viticultural area boundary line. Payette, Idaho, is at an elevation of about 2,300 feet in the basin, but California Mountain, Oregon, reaches a height of approximately 5,150 feet, significantly higher than the proposed viticultural area boundary line.

Soils

The petitioner describes the soils of the proposed Snake River Valley viticultural area as being diverse and not a distinguishing feature, the soils having developed in various parent material, during various time frames, and under varying climatic conditions. The soils are broadly classified as Aridsols, the petitioner adds, and no single soil series or association is dominant.

Vineyards within the proposed Snake River Valley viticultural area are on soils that have underlying parent material derived from weathered sediment from the ancient Lake Idaho, according to the petitioner. At the surface are loess, sand, and, in slack water areas, flood-deposited silt, the petitioner explains. Typically, vineyards in the proposed area are on very shallow soils on slopes.

Climate

The distinguishing climatic features of the proposed Snake River Valley viticultural area, the petitioner states, include precipitation, air temperature,

heat-unit accumulation, and growing season length. Climatic contributing factors, the petitioner continues, include the following: the region's topography, a basin depression with surrounding mountainous terrain; the continental inland location approximately 310 miles east of the Cascade Range; and the 43 degree north latitude. The petitioner adds that the proposed Snake River Valley viticultural area is in a climatic transition zone with both continental and maritime regimes. The combination of elevation and latitude of the proposed Snake River Valley viticultural area, the petitioner continues, creates a shorter grape-growing season than those in many other viticultural regions in the Western United States.

Climatic data for the proposed Snake River Valley viticultural area, often referred to as the West Snake River Valley, and for other grape-growing districts in the Western United States are noted in the climatic data table below.

The petitioner used online data from 1971 to 2000 compiled and archived by the National Climatic Data Center (NCDC), National Oceanic and Atmospheric Administration, for four areas within the proposed Snake River Valley viticultural area and for three viticultural regions outside of Idaho. The petitioner averaged the collected data for the four Idaho weather stations listed in the climatic data table below. The data are listed separately in the table for each station outside of Idaho, including Umpqua Valley, Oregon; Walla Walla Valley, Washington and Oregon; and Napa Valley, California, all of which are in established American viticultural areas.

ELEVATION, LOCATION, AND CLIMATIC DATA FOR FOUR WEATHER STATIONS WITHIN IDAHO AND FOR THREE WEATHER STATIONS IN WESTERN STATES, OUTSIDE OF IDAHO

[In the column headings, Elev. (m) means elevation in meters; MAT, mean annual temperature in degrees Celsius; MAP, mean annual precipitation in millimeters; GDD, growing (Celsius) degree-days; GSL, growing season length in days; XMT, 30-year extreme minimum temperature in degrees Celsius (with event year); and CNT, degrees of continental influence (mean annual temperature range that increases as the coastal marine influence decreases, in degrees Celsius)]

Weather stations in the proposed Snake River Valley viticultural area:	Elev. (m)	Location (lat./long.)	MAT (°C)	MAP (mm)	GDD	GSL	XMT 0°C	CNT (°C)
Parma Experiment Station, ID	677	43°48′ N./116°57′ W.	9.9	283	1,342	140	−32 (1990)	25
Weiser, ID	722	44°15′ N./116°58′ W.	11.0	307	1,637	136	−34 (1990)	27
Deer Flat Dam, ID	765	43°35′ N./116°45′ W.	11.6	258	1,626	165	−30 (1989)	24
Glenns Ferry, ID	753	42°56′ N./115°19′ W.	10.5	248	1,413	125	−32 (1989)	24
Averages of above four Idaho stations in WSRV.	729	N/A	10.8	274	1,504	142	N/A	25
Other Western Viticultural Areas (Reporting Station):								
Umpqua Valley (Roseburg, OR)	128	43°2′ N./123°36′ W.	13.0	855	1,484	218	3 (1989)	15
Walla Walla Valley (Walla Walla, WA)	357	46°5′ N./118°28′ N.	12.3	530	1,715	206	−11 (1985)	23
Napa Valley (Napa, CA)	18	38°28′ N./122°27′ W.	15.0	672	1,753	259	14 (1990)	11

Precipitation: The proposed Snake River Valley viticultural area is a semiarid desert with minimal summer precipitation, the petitioner explains. The proposed viticultural area has a mean annual precipitation of 10 to 12 inches, the petitioner continues, occurring mostly in winter. The low precipitation rate combines with warm weather during the growing season, the petitioner notes, and the vineyards therefore need irrigation.

The Idaho weather stations within the proposed Snake River Valley viticultural area, according to the petitioner, receive about half the annual precipitation of the weather stations at Umpqua Valley, Oregon; Walla Walla Valley, Washington and Oregon; and Napa Valley, California. The petitioner explains that the lower annual precipitation of the proposed Snake River Valley viticultural area may be partially due to the rain shadows of the Cascade, Sierra Nevada, and Owyhee mountain ranges.

Temperature: The proposed Snake River Valley viticultural area's mean annual temperature, based on an average of the four Idaho stations monitored, is 51 degrees F, or 10.8 degrees C, according to the NCDC data. The midwinter mean temperatures are below 0 degrees C for several months, and potential vineyard damage is a hazard, the petitioner explains. The California, Oregon, and Washington weather stations listed in the climatic data table above have warmer average temperatures in winter. The differences in the extreme winter temperatures and the mean annual temperature ranges between the proposed Snake River Valley viticultural area and the three weather stations monitored in California, Oregon, and Washington and Oregon show significant variations in viticultural growing conditions.

The petitioner explains that the difference in winter temperatures between the colder proposed Snake River Valley viticultural area and the stations at Umpqua Valley, Oregon; and Walla Walla Valley, Washington and Oregon; and Napa Valley, California, results, to a great extent, from the higher elevation of the proposed viticultural area, which is between 660 and 1,040 meters, or 2,165 and 3,412 feet. Elevations of the other stations are Umpqua Valley, about 460 feet; Walla Walla Valley, 1,200 feet; and Napa Valley, 40 feet.

Regarding the seven weather stations, four in Idaho and three in other Western States, distances from the Pacific Ocean affect the amount of moderating, marine air temperatures they receive. Oceans tend to moderate air temperatures over land; hence, a wider annual temperature range indicates a greater degree of continental influence, or distance from an ocean. The proposed Snake River

Valley viticultural area and the Walla Walla Valley both have, as a measure of continental influence, mean annual temperature ranges of about 25 degrees C. In comparison, the Umpqua Valley and the Napa Valley, both of which are closer to the Pacific Ocean and are at low elevations, have a smaller mean annual temperature range—about 15 degrees C.

The temperatures of the proposed Snake River Valley viticultural area, according to the petitioner, rise rapidly during the growing season, from June through August. The Umpqua Valley in Oregon and the proposed Snake River Valley viticultural area have similar, annual, total growing degree-days, as shown in the climatic data table above; but, they have between 200 and 250 fewer heat units than the Walla Walla Valley, Washington and Oregon, and the Napa Valley, California. Each degree that a day's mean temperature is above 50 degrees F, which is the minimum temperature required for grapevine growth, is counted as 1 degree-day (see "General Viticulture," Albert J. Winkler, University of California Press, 1975).

The proposed Snake River Valley viticultural area growing season length correlates to the frost-free period from about May 10 to September 29 annually, according to the petitioner. The total measurement of annual viticultural growth is between 64 and 117 days less than in the Walla Walla Valley, Washington and Oregon; Umpqua Valley, Oregon; and Napa Valley, California, viticultural areas.

Boundary Description

See the narrative boundary description of the petitioned-for viticultural area in the proposed regulatory text published at the end of this notice.

Maps

The petitioner provided the required maps, and we list them below in the proposed regulatory text.

Impact on Current Wine Labels

Part 4 of the TTB regulations prohibits any label reference on a wine that indicates or implies an origin other than the wine's true place of origin. If we establish this proposed viticultural area, its name, "Snake River Valley", will be recognized under 27 CFR 4.39(i)(3) as a name of viticultural significance. The text of the new regulation would clarify this point. Consequently, wine bottlers using "Snake River Valley" in a brand name, including a trademark, or in another label reference as to the origin of the wine, will have to ensure that the product is eligible to use the viticultural area's name as an appellation of origin. On the other hand, we do not believe that any single part of the proposed viticultural area name standing alone, such as "Snake" or "Snake River", would have viticultural significance if the new area is established. Accordingly, the proposed part 9 regulatory text set forth in this document specifies only the full "Snake River Valley" name as a term of viticultural significance for purposes of part 4 of the TTB regulations.

For a wine to be eligible to use as an appellation of origin a viticultural area name or other term specified as being viticulturally significant in part 9 of the TTB regulations, at least 85 percent of the wine must be derived from grapes grown within the area represented by that name or other term, and the wine must meet the other conditions listed in 27 CFR 4.25(e)(3). If the wine is not eligible to use the viticultural area name or other term as an appellation of origin and that name or term appears in the brand name, then the label is not in compliance and the bottler must change the brand name and obtain approval of a new label. Similarly, if the viticultural area name or other term appears in another reference on the label in a misleading manner, the bottler would have to obtain approval of a new label. Accordingly, if a new label or a previously approved label uses the name "Snake River Valley" for a wine that does not meet the 85 percent standard, the new label will not be approved, and the previously approved label will be subject to revocation, upon the effective date of the approval of the Snake River Valley viticultural area.

Different rules apply if a wine has a brand name containing a viticultural area name that was used as a brand name on a label approved before July 7, 1986. See 27 CFR 4.39(i)(2) for details.

Public Participation

Comments Invited

We invite comments from interested members of the public on whether we should establish the proposed viticultural area. We are also interested in receiving comments on the sufficiency and accuracy of the name, boundary, climatic, and other required information submitted in support of the petition. Please provide any available specific information in support of your comments.

TTB is particularly interested in comments on the appropriateness of the proposed east boundary line, since the Snake River Valley, according to the Geographic Names Information System, extends into southeastern Idaho. The petitioner explains that the region east of Twin Falls, Idaho, is excluded, based on its being at higher elevations and having a colder, drier winter climate that could result in severe annual vineyard damage. The petitioner also explains that current place name recognition for the Snake River Valley is predominantly within southwestern Idaho and southeastern Oregon, the region of the proposed viticultural area. In this respect, we are interested in knowing whether an alternative name, such as West Snake River Valley, would better meet the name-evidence requirement of 27 CFR 9.3(b).

Because of the potential impact of the establishment of the proposed Snake River Valley viticultural area on wine labels that include the words "Snake River Valley" as discussed above under "Impact on Current Wine Labels," we are particularly interested in comments regarding whether there will be a conflict between the proposed area name and currently used brand names. If a commenter believes that a conflict will arise, the commenter should describe the nature of that conflict, including any negative economic impact that approval of the proposed viticultural area will have on an existing viticultural enterprise. We are also interested in receiving suggestions for ways to avoid any conflicts, for example by adopting a modified or different name for the viticultural area.

Although TTB believes that only the full "Snake River Valley" name should be considered to have viticultural significance upon establishment of the proposed new viticultural area, we also invite comments from those who believe that "Snake" or "Snake River" standing alone would have viticultural significance upon establishment of the area. Comments in this regard should include documentation or other information supporting the conclusion that use of "Snake" or "Snake River" on a wine label could cause consumers and vintners to attribute to the wine in question the quality, reputation, or other characteristic of wine made from grapes grown in the proposed Snake River Valley viticultural area.

Submitting Comments

Please submit your comments by the closing date shown above in this notice. Your comments must include this notice number and your name and mailing address. Your comments must be legible and written in language acceptable for public disclosure. We do not acknowledge receipt of comments, and we consider all comments as originals. You may submit comments in one of five ways:

• *Mail:* You may send written comments to TTB at the address listed in the **ADDRESSES** section.

• *Facsimile:* You may submit comments by facsimile transmission to 202–927–8525. Faxed comments must—

(1) Be on 8.5- by 11-inch paper;

(2) Contain a legible, written signature; and

(3) Be no more than five pages long. This limitation assures electronic access to our equipment. We will not accept faxed comments that exceed five pages.

• *E-mail:* You may e-mail comments to *nprm@ttb.gov*. Comments transmitted by electronic mail must—

(1) Contain your e-mail address;

(2) Reference this notice number on the subject line; and

(3) Be legible when printed on 8.5- by 11-inch paper.

• *Online form:* We provide a comment form with the online copy of this notice on our Web site at *http://www.ttb.gov/alcohol/rules/index.htm*. Select the "Send comments via e-mail" link under this notice number.

• *Federal e-rulemaking portal:* To submit comments to us via the Federal e-rulemaking portal, visit *http://www.regulations.gov* and follow the instructions for submitting comments.

You may also write to the Administrator before the comment closing date to ask for a public hearing. The Administrator reserves the right to determine whether to hold a public hearing.

Confidentiality

All submitted material is part of the public record and subject to disclosure. Do not enclose any material in your comments that you consider confidential or inappropriate for public disclosure.

Public Disclosure

You may view copies of this notice, the petition, the appropriate maps, and any comments we receive by appointment at the TTB Information Resource Center at 1310 G Street, NW., Washington, DC 20220. You may also obtain copies at 20 cents per 8.5- by 11-inch page. Contact our information specialist at the above address or by telephone at 202–927–2400 to schedule an appointment or to request copies of comments.

For your convenience, we will post this notice and any comments we receive on this proposal on the TTB Web site. We may omit voluminous attachments or material that we consider unsuitable for posting. In all cases, the full comment will be available in the TTB Information Resource Center. To access the online copy of this notice and the submitted comments, visit *http://www.ttb.gov/alcohol/rules/index.htm*. Select the "View Comments" link under this notice number to view the posted comments.

Regulatory Flexibility Act

We certify that this proposed regulation, if adopted, would not have a significant economic impact on a substantial number of small entities. The proposed regulation imposes no new reporting, recordkeeping, or other administrative requirement. Any benefit derived from the use of a viticultural area name would be the result of a proprietor's efforts and consumer acceptance of wines from that area. Therefore, no regulatory flexibility analysis is required.

Executive Order 12866

This proposed rule is not a significant regulatory action as defined by Executive Order 12866, 58 FR 51735. Therefore, it requires no regulatory assessment.

Drafting Information

N.A. Sutton of the Regulations and Rulings Division drafted this notice.

List of Subjects in 27 CFR Part 9

Wine.

Proposed Regulatory Amendment

For the reasons discussed in the preamble, we propose to amend title 27, chapter 1, part 9, Code of Federal Regulations, as follows:

PART 9—AMERICAN VITICULTURAL AREAS

1. The authority citation for part 9 continues to read as follows:

Authority: 27 U.S.C. 205.

Subpart C—Approved American Viticultural Areas

2. Subpart C is amended by adding a new § 9.____ to read as follows:

§ 9. Snake River Valley.

(a) *Name.* The name of the viticultural area described in this section is "Snake River Valley". For purposes of part 4 of this chapter, "Snake River Valley" is a term of viticultural significance.

(b) *Approved maps.* The appropriate maps for determining the boundary of the Snake River Valley viticultural area are 14 United States Geological Survey 1:100,000 scale, metric topographic maps. They are titled, (1) Baker, Oregon-Idaho, 1981;

(2) McCall, Idaho-Oregon, 1980, Photoinspected 1990;

(3) Weiser, Idaho-Oregon, 1980, Photoinspected 1990;

(4) Boise, Idaho-Oregon, 1981;

(5) Idaho City, Idaho, 1982;

(6) Murphy, Idaho, 1986;

(7) Mountain Home, Idaho, 1990;

(8) Fairfield, Idaho, 1978;

(9) Twin Falls, Idaho, 1979;

(10) Glenns Ferry, Idaho, 1992;

(11) Triangle, Idaho, 1990;

(12) Mahogany Mountain, Idaho, 1978;

(13) Vale, Oregon-Idaho; 1993; and

(14) Brogan, Oregon-Idaho, 1980

(c) *Boundary.* The Snake River Valley viticultural area is located in Ada, Adams, Boise, Canyon, Elmore, Gem, Gooding, Jerome, Owyhee, Payette, Twin Falls, and Washington Counties in southwestern Idaho and in Baker and Malheur Counties in southeastern Oregon. The boundary of the Snake River Valley viticultural area is as described below:

(1) The beginning point is on the Baker map in Oregon at the intersection of the 1,040-meter contour line and Interstate 84, between Pleasant Valley and Oxman in Baker County, T10S/R42E;

(2) From the beginning point proceed east following the 1,040-meter contour line along the eastern side of the Burnt River Valley, then crossing over to the Brogan map, proceed northerly along the western side of the Snake River Valley and, crossing back over to the Baker map, proceed westerly along the southern side of the Powder River Valley to the 1,040-meter contour line's intersection with the northern boundary of Baker County, T7S/R40E, on the Baker map;

(3) Proceed 7.5 miles straight east along the northern boundary of Baker County to its intersection with the 1,040-meter line east of Oregon State Road 203 and three unnamed creeks, T7S/R41E, on the Baker map;

(4) Proceed generally southeast along the 1,040-meter contour line onto the McCall map, to its intersection with the 45 degree north latitude, to the immediate west of North Creek in the Hell's Canyon National Recreation Area, T6S/R47E, on the northern border of the McCall map;

(5) Proceed straight east along the 45 degree north latitude to its intersection with the 1,040-meter contour line, to the immediate east of North Creek, T6S/R47E, on the McCall map;

(6) Follow the 1,040-meter contour line, which encircles the northern portion of McLain Gulch, to its second intersection with the 45 degree north longitude, west of the Snake River in Baker County, Oregon, T6S/R48E, on the McCall map;

(7) Proceed straight east along the 45 degree north latitude to its intersection

with the 1,040-meter contour line, to east of the Snake River and Indian Creek in Adams County, Idaho, T6S/R48W, on the McCall map;

(8) Continue following the 1,040-meter contour line in a clockwise rotation on the McCall map, proceeding southerly on the southeast side of the Snake River, northeasterly north of the Crooked River, crossing the Crooked River, T7S/R3W, proceeding southwesterly south of the Crooked River, crossing Brownlee Creek, T16N/R4W, proceeding generally southwesterly onto the Baker map, continuing southwesterly, crossing Sturgill Creek, T15N/R6W, and Dennett Creek, T14N/R6W, proceeding onto the Brogan map, proceeding southeasterly, crossing Rock Creek, T13N/R6W, proceeding onto the Weiser map, proceeding northeasterly, north of the Mann Creek State Recreation Area, crossing Mann Creek, T13N/R5W, continuing northeasterly onto the McCall map;

(9) Continue following the 1,040-meter contour line in a clockwise rotation on the McCall map, proceeding northeasterly, crossing Pine Creek, T15N/R4W, and Hornet Creek, T8S/R2W, passing west of the Payette National Forest, proceeding southerly, passing east of Mesa, onto the Weiser map, proceeding southerly, crossing Crane Creek, T12N/R1W, turning westerly, rounding north of the Paddock Valley Reservoir, crossing Willow Creek, T9N/R1W, turning southerly onto the Boise map, looping southerly and northerly north of the Black Canyon Reservoir and moving back onto the Weiser map;

(10) Continue following the 1,040-meter contour line in a clockwise rotation on the Weiser map, proceeding northerly, crossing Squaw Creek, T12N/R1E, and then southerly, crossing Cottonweed Creek, T11N/R1E, and then southerly again onto the Boise map, rounding south of South Mountain, back onto the Weiser map, proceeding northeasterly north of the Payette River, crossing the North Fork Payette River, T10N/R3E, then proceeding southwesterly south of the Payette River, onto the Boise map, proceeding generally southerly, crossing Cartwright Creek, T6N/R2E, and proceeding westerly and southeasterly towards Lucky Peak Lake, and then turning northward onto the Idaho City map;

(11) Continue following the 1,040-meter contour line in a clockwise rotation on the Idaho City map, proceeding northerly, crossing Grimes and Mores Creek, T5N/R4E, and then proceeding southerly to Lucky Peak Lake, turning northeasterly north of the Lucky Peak Lake, Arrowrock Reservoir, and Middle Fork Boise River to T4N/R7E, crossing the Middle Fork Boise River and proceeding southwesterly south of the Middle Fork Boise River, to the South Fork Boise River, crossing the South Fork Boise River, T2N/R6E, proceeding onto the Boise map proceeding southwesterly south of Lucky Peak Lake onto the Murphy map;

(12) Continue following the 1,040-meter contour line in a clockwise rotation southeasterly on the Murphy map to the Mountain Home map, proceeding southeasterly, crossing Canyon Creek, passing north of Mountain Home Reservoir, crossing King Hill Creek, onto the Fairfield map, proceeding easterly, crossing Clover Creek, T4S/R13E, proceeding southerly onto the Twin Falls map;

(13) Continue following the 1,040-meter contour line in a clockwise rotation on the Twin Falls map, proceeding southeasterly to the Snake River, T9S/R14E, following north of the Snake River and crossing at T10S/R18E, northeast of Twin Falls, proceeding westerly south of the Snake River to the Salmon River, following east of the Salmon River and crossing at T10S/R13E, proceeding northerly west of the Salmon River and the Hagerman Wildlife Management Area, proceeding west onto the Glenns Ferry map;

(14) Continue following the 1,040-meter contour line in a clockwise rotation on the Glenns Ferry map, proceeding generally west to Rosevear Gulch, turning south between Rosevear Gulch and Pilgrim Gulch, near Deadman Creek, heading northwesterly, continuing through the Bruneau Desert, crossing Hole Creek in Pot Canyon and proceeding to Bruneau Canyon, proceeding southeasterly east of Bruneau Canyon, crossing Bruneau Canyon, T10S/R7E, proceeding west of Bruneau Canyon then west onto the Triangle map;

(15) Continue following the 1,040-meter contour line in a clockwise rotation on the Triangle map, heading northwesterly, crossing Shoofly Creek and Alder Creek, T6S/R1W, onto the Murphy map, continuing northwesterly to Sinker Creek, crossing Sinker Creek, T4S/R2W, continuing northwesterly to Jump Creek, crossing Jump Creek, T1N/R5W, proceeding northwesterly onto the Boise map, crossing its southwestern corner, T2N/R5W, onto the Mahogany Mountain map;

(16) Continue following the 1,040-meter contour line in a clockwise rotation onto the Mahogany Mountain map, proceeding westerly onto the Vale map, generally northwesterly then southwesterly onto the Mahogany Mountain map, proceeding southwest, west, and generally north onto the Vale map, passing through Succor Creek State Recreational Area, returning to the Mahogany Mountain map, and, passing east of McIntyre Ridge, crossing Succor Creek, T1N/R46E, proceeding northerly back onto the Vale map;

(17) Continue following the 1,040-meter contour line in a clockwise rotation on the Vale map, proceeding northerly east of Owyhee Ridge and Long Draw to north of Lake Owyhee, southwesterly and southerly south of Lake Owyhee onto the Mahogany Mountain map, southwesterly south of Lake Owyhee, the Owyhee River, and Owyhee Canyon, crossing Owyhee Canyon at T29S/R41E, proceeding northerly west of Owyhee Canyon, northeasterly west of Owyhee River and Owyhee Reservoir, and northerly onto the Vale map;

(18) Continue following the 1,040-meter contour line in a clockwise rotation on the Vale map, proceeding generally northerly to T20S/R42E, southwesterly east of Cottonwood Creek, crossing Cottonwood Creek, T22S/R40E, proceeding north to the Malheur River, following the Malheur River westerly to the intersection of the 1,040-meter contour line and the 118 degree longitude in Malheur County, Oregon, T21S/R38E, on the western border of the Vale map;

(19) Proceed straight north along the 118 degree longitude to its intersection with the 1,040 meter contour line, north of the Malheur River, T20S/R38E, proceeding easterly north of the Malheur River to Hog Creek, crossing Hog Creek, T20S/R40E, and proceeding northerly on the Vale map;

(20) Continue following the 1,040-meter contour line in a clockwise rotation, crossing onto the Brogan map, proceeding easterly, northerly, and westerly to and around Malheur Reservoir, T14S/R41E, proceeding easterly to Cottonwood Gulch then northerly to Dixie Creek, crossing Dixie Creek, T12S/RR41E, proceeding easterly and northerly onto the Baker map;

(21) Continue following the 1,040-meter contour line in a clockwise rotation on the Baker map, proceeding westerly south of the Burnt River, crossing the Burnt River, T10S/R41E, proceeding easterly north of the Burnt River to Gravel Pits, then northerly, returning to the beginning point.

Signed: June 29, 2006.

John J. Manfreda,

Administrator.

[FR Doc. E6–11078 Filed 7–14–06; 8:45 am]

BILLING CODE 4810–31–P

DEPARTMENT OF THE TREASURY

Alcohol and Tobacco Tax and Trade Bureau

27 CFR Part 9

[Notice No. 61]

RIN 1513–AB23

Proposed Expansion of the Alexander Valley Viticultural Area (2005R–501P)

AGENCY: Alcohol and Tobacco Tax and Trade Bureau, Treasury.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Alcohol and Tobacco Tax and Trade Bureau proposes to expand the Alexander Valley viticultural area in Sonoma County, California, by 1,300 acres along its northwestern boundary line. We designate viticultural areas to allow vintners to better describe the origin of their wines and to allow consumers to better identify wines they may purchase. We invite comments on this proposed amendment to our regulations.

DATES: We must receive written comments on or before September 15, 2006.

ADDRESSES: You may send comments to any of the following addresses:

- Director, Regulations and Rulings Division, Alcohol and Tobacco Tax and Trade Bureau, Attn: Notice No. 61, P.O. Box 14412, Washington, DC 20044–4412.
- 202–927–8525 (facsimile).
- *nprm@ttb.gov* (e-mail).
- *http://www.ttb.gov/alcohol/rules/index.htm*. An online comment form is posted with this notice on our Web site.
- *http://www.regulations.gov* (Federal e-rulemaking portal; follow instructions for submitting comments).

You may view copies of this notice, the petition, the appropriate maps, and any comments we receive about this proposal by appointment at the TTB Information Resource Center, 1310 G Street, NW., Washington, DC 20220. To make an appointment, call 202–927–2400. You may also access copies of the notice and comments online at *http://www.ttb.gov/alcohol/rules/index.htm*.

See the **Public Participation** section of this notice for specific instructions and requirements for submitting comments, and for information on how to request a public hearing.

FOR FURTHER INFORMATION CONTACT: N.A. Sutton, Regulations and Rulings Division, Alcohol and Tobacco Tax and Trade Bureau, 925 Lakeville St., No. 158, Petaluma, CA 94952; telephone 415–271–1254.

SUPPLEMENTARY INFORMATION:

Background on Viticultural Areas

TTB Authority

Section 105(e) of the Federal Alcohol Administration Act (the FAA Act, 27 U.S.C. 201 *et seq.*) requires that alcohol beverage labels provide consumers with adequate information regarding product identity and prohibits the use of misleading information on those labels. The FAA Act also authorizes the Secretary of the Treasury to issue regulations to carry out its provisions. The Alcohol and Tobacco Tax and Trade Bureau (TTB) administers these regulations.

Part 4 of the TTB regulations (27 CFR part 4) allows the establishment of definitive viticultural areas and the use of their names as appellations of origin on wine labels and in wine advertisements. Part 9 of the TTB regulations (27 CFR part 9) contains the list of approved viticultural areas.

Definition

Section 4.25(e)(1)(i) of the TTB regulations (27 CFR 4.25(e)(1)(i)) defines a viticultural area for American wine as a delimited grape-growing region distinguishable by geographical features, the boundaries of which have been recognized and defined in part 9 of the regulations. These designations allow vintners and consumers to attribute a given quality, reputation, or other characteristic of a wine made from grapes grown in an area to its geographical origin. The establishment of viticultural areas allows vintners to describe more accurately the origin of their wines to consumers and helps consumers to identify wines they may purchase. Establishment of a viticultural area is neither an approval nor an endorsement by TTB of the wine produced in that area.

Requirements

Section 4.25(e)(2) of the TTB regulations outlines the procedure for proposing an American viticultural area and provides that any interested party may petition TTB to establish a grape-growing region as a viticultural area. Petitioners may use the same procedure to request changes involving existing viticultural areas. Section 9.3(b) of the TTB regulations requires the petition to include—

- Evidence that the proposed viticultural area is locally and/or nationally known by the name specified in the petition;
- Historical or current evidence that supports setting the boundary of the proposed viticultural area as the petition specifies;
- Evidence relating to the geographical features, such as climate, soils, elevation, and physical features, that distinguish the proposed viticultural area from surrounding areas;
- A description of the specific boundary of the proposed viticultural area, based on features found on United States Geological Survey (USGS) maps; and
- A copy of the appropriate USGS map(s) with the proposed viticultural area's boundary prominently marked.

Alexander Valley Viticultural Area Expansion Petition

Patrick Shabram of Shabram Consulting, with the support of vineyard owner Anthony Martorana, proposes a 1,300-acre expansion of the Alexander Valley viticultural area (27 CFR 9.53) along the current diagonal northwestern boundary line. The expansion would result in a viticultural area of 67,710 acres.

The proposed expansion area starts 1 mile south-southwest of Cloverdale and continues south for another 2 miles, according to the USGS Cloverdale Quadrangle map and written boundary description submitted by the petitioner. The shape of the proposed expansion area resembles a triangle with one side running along the Alexander Valley viticultural area's existing diagonal northwestern boundary line.

The Seven Arches Vineyards, according to the petitioner, straddles that diagonal northwestern boundary line, with approximately 10 acres outside of the existing Alexander Valley viticultural area. The proposed expansion area, the petitioner continues, would incorporate into the Alexander Valley viticultural area all of Seven Arches Vineyards and the entire 20 acres of Icaria Vineyards, both of which are located along Hiatt Road and Icaria Creek. Another vineyard, Jeke Vineyards, lies immediately inside the existing boundary line, according to a petition map outlining the vineyards of the area. The table below explains the relationship of these three vineyards to the existing diagonal northwestern boundary line of the Alexander Valley viticultural area.

Vineyard name (Icaria Creek and Hiatt Road areas)	Vineyard location
Jeke Vineyards	1/10 mile inside of the boundary line.
Seven Arches Vineyards.	Straddles the boundary line.
Icaria Vineyards	4/10 mile outside of the boundary line.

We summarize below the evidence presented in the petition in support of the proposed expansion of the Alexander Valley viticultural area.

Name Evidence

The proposed expansion area, according to the petitioner, is historically identified with Cloverdale, a town located at the northern end of the Alexander Valley viticultural area. In "History of the Sonoma Viticultural District," by Ernest P. Peninou, Nomis Press, 1998, pages 186–187, it is noted that Parker Vineyards was established in 1890 in the proposed expansion area. Mr. Peninou identifies Parker Vineyards as a part of the viticultural history of Cloverdale. The petitioner explains that vineyards in the Cloverdale area, except for the two vineyards in the proposed expansion area, lie within the original boundaries of the Alexander Valley viticultural area.

An article entitled "The Early Wineries of the Cloverdale Area," by William A. Cordtz, Ph.D., ran in the March/April 1985 edition of Wine West; the article states that grape-growing started in Cloverdale before other areas of Alexander Valley. It explains that viticulture in the upper Alexander Valley was centered around Cloverdale and flourished between 1880 and Prohibition. Also, the Cloverdale Reveille, a local area newspaper, ran articles about grape-growing and in 1878 reported prices of local grapes at $8 per ton.

Shortly after the establishment of the original viticultural area, the petitioner states, some wine industry members erroneously believed that the proposed expansion area already lay inside the Alexander Valley viticultural area boundary. As an example, the petitioner states that Jade Mountain Vineyards labeled a 1985 Icaria Vineyards wine with the Alexander Valley viticultural area name, while a map submitted with the petition shows Icaria Vineyards as lying within the proposed expansion area.

Boundary Evidence

The established Alexander Valley viticultural area's diagonal, northwestern boundary line trends northwest-southeast. The line connects section 24, T. 11 N., R. 11 W. to the map point at 38°45′ latitude and 123°00′ longitude in section 5, T. 10 N., R. 10 W., of the USGS Cloverdale Quadrangle map.

When the original Alexander Valley viticultural area was proposed (see T.D. ATF–187, 49 FR 42724, October 24, 1984), several petitioning groups proposed differing boundaries for the proposed viticultural area. Ultimately, the Bureau of Alcohol, Tobacco and Firearms (ATF), TTB's predecessor, determined that the Alexander Valley viticultural area's boundary should encompass the area from southeast of Healdsburg to north of Cloverdale in Sonoma County. The proposed westerly expansion area, according to the USGS Cloverdale Quadrangle map, is approximately 1 mile south-southwest of Cloverdale.

The petitioner provided a map of the Alexander Valley viticultural area published by the Sonoma County Grape Growers Association in 1998. The map shows the current viticultural area boundaries and displays the vineyards within the proposed expansion area with the same shade of dark green used for the vineyards within the current viticultural area boundary. In contrast, the vineyards outside the existing boundary carry a significantly lighter shade of green. The petitioner contends that the wine industry used the map as a geographic analytical tool to group all vineyards on the floor and the lower slopes of the Alexander Valley.

Icaria Creek and several of its tributaries, as part of the Alexander Valley watershed, run through the proposed expansion area and drain into the Russian River. In an interview in the Healdsburg Tribune of December 7, 1979, Robert Young observed that there is only one watershed in the entire Alexander Valley. His observation, according to the petitioner, supports the expansion petition because the expansion area also falls within that watershed.

Distinguishing Features

The petitioner provides information about distinguishing features and evidence to document that the proposed expansion area is similar in topography, elevation, soils, and climate to the northwestern region of the Alexander Valley viticultural area, inside the existing boundary line along Hiatt Road and Icaria Creek.

The petitioner explains that the existing Alexander Valley viticultural area and the proposed expansion area, located on opposite sides of the diagonal boundary line, have similar distinguishing features. The topography, including range in elevation and the flood plains along Icaria Creek, water resources, soils, and climate combine to create a similar viticultural environment on both sides of the diagonal boundary line, according to the petitioner.

Topography

The petitioner describes the similar topographic features scattered throughout the Icaria Creek area on both sides of the existing Alexander Valley viticultural area's diagonal northwestern boundary line. The proposed expansion area is at elevations of 360 feet on the flood plain along Icaria Creek to 874 feet, according to the USGS Cloverdale Quadrangle map. Similar topography exists immediately east and inside the Alexander Valley viticultural area's diagonal boundary line. Elevations there, as noted on the USGS Cloverdale Quadrangle map, range from a low of 320 feet on the flood plain along Icaria Creek to a high of 884 feet.

Icaria Creek, and its tributaries, run through both the east and the west sides of the Alexander Valley viticultural area's diagonal boundary line to the Russian River, as shown on the USGS Cloverdale Quadrangle map. Also, Hiatt Road meanders along Icaria Creek and some of its tributaries on both sides of the diagonal boundary line.

The petitioner explains that the terrain west of the proposed expansion area becomes increasingly steep and mountainous and that elevations climb to some 1,600 feet, as shown on the USGS Cloverdale Quadrangle map. The mountainous terrain contrasts with the lower elevations and the gentle valley landscape of the Alexander Valley region shown on the map. The petitioner adds that the westerly mountainous terrain creates an unsuitable environment for viticulture.

The vineyards in the proposed expansion area generally lie on the lower, flatter terrain of the flood plain along Icaria Creek, according to the diagrams on the map in the petition. The elevations generally range between 350 and 450 feet, but the southernmost part of the Seven Arches Vineyards reaches 590 feet. Jeke Vineyards, which is within the Alexander Valley viticultural area's western boundary line, lies between 350 and 380 feet of elevation on the flood plain along Icaria Creek, the petitioner states. Thus, Jeke Vineyards, which is immediately inside the east side of the diagonal boundary line, and the Icaria and Seven Arches Vineyards, which are in the proposed expansion area on the west side of the diagonal boundary line, do not vary substantially in their overall elevations and their relative locations on the flood plain.

Soils

The petitioner explains that the distinguishing soils in the Icaria Creek and Hiatt Road areas in the proposed expansion area include the Hugo-Josephine-Laughlin association. According to the Soil Survey of Sonoma County, California, issued in 1972 by

the United States Department of Agriculture, Soil Conservation Service, the soils in this association are well drained, gently sloping to very steep gravelly loam. This soil association, according to the petitioner, is common on the western slopes of the Alexander Valley, including much of the existing viticultural area. The predominant soil associations in the Alexander Valley viticultural area, the petitioner continues, are the Yolo-Cortina-Pleasanton, Goulding-Toomes-Guenoc, and Hugo-Josephine-Laughlin associations, which are also in the proposed expansion area.

Climate

The petitioner states that the climate of the proposed expansion area closely reflects that of the area to its immediate east and inside the viticultural area boundary line. Both areas, the petitioner states, are similar in vegetative cover, elevation, topographic features, and latitudinal coordinates.

The entire Alexander Valley viticultural area has a coastal warm climate type, according to the model Climate Types of Sonoma County, originally developed by Robert Sisson and shown on the 1986 Vossen map, provided with the petition. This model uses the total daily hours of temperatures between 70 and 90 degrees F. The petitioner explains that the temperature range is the most significant factor for photosynthesis in the grapevines.

Climatic variations have not been recorded along Icaria Creek and Hiatt Road between the existing Alexander Valley viticultural area and the proposed expansion area. However, the manager of the Seven Arches Vineyards writes that along Hiatt Road, on both sides of the diagonal boundary line of the existing Alexander Valley viticultural area, the climate is similar, if not identical. The petitioner explains that the climatic variations in inland northern Sonoma County result from coastal, or marine, influences to the west. Thus, in northern Alexander Valley, which is located in inland northern Sonoma County, climatic variations are less because of the diminished coastal influence on the region.

Boundary Description

See the changes to the narrative boundary description for the petitioned-for viticultural area expansion in the proposed regulatory text amendment published at the end of this notice.

Maps

The petitioner provided the required maps, which are already listed in the § 9.53 regulatory text.

Impact on Current Wine Labels

The proposed expansion of the Alexander Valley viticultural area will not affect currently approved wine labels. The approval of this proposed expansion may allow additional vintners to use "Alexander Valley" as an appellation of origin on their wine labels. Part 4 of the TTB regulations prohibits any label reference on a wine that indicates or implies an origin other than the wine's true place of origin. For a wine to be eligible to use as an appellation of origin the name of a viticultural area specified in part 9 of the TTB regulations, at least 85 percent of the wine must be derived from grapes grown within the area represented by that name, and the wine must meet the other conditions listed in 27 CFR 4.25(e)(3). In addition, regulations regarding the use of a brand name containing a viticultural area name on a label are found in 27 CFR 4.39(i).

Public Participation

Comments Invited

We invite comments from interested members of the public on whether we should expand the Alexander Valley viticultural area as described above. We are especially interested in comments concerning the similarity of the proposed expansion area to the currently existing Alexander Valley viticultural area. Please provide any available specific information in your comments about the proposed expansion area's name, proposed boundaries, or distinguishing features.

Submitting Comments

Please submit your comments by the closing date shown above in this notice. Your comments must include this notice number and your name and mailing address. Your comments must be legible and written in language acceptable for public disclosure. We do not acknowledge receipt of comments, and we consider all comments as originals. You may submit comments in one of five ways:

- *Mail:* You may send written comments to TTB at the address listed in the **ADDRESSES** section.
- *Facsimile:* You may submit comments by facsimile transmission to 202–927–8525. Faxed comments must—

(1) Be on 8.5- by 11-inch paper;

(2) Contain a legible, written signature; and

(3) Be no more than five pages long. This limitation assures electronic access to our equipment. We will not accept faxed comments that exceed five pages.

- *E-mail:* You may e-mail comments to *nprm@ttb.gov*. Comments transmitted by electronic mail must—

(1) Contain your e-mail address;

(2) Reference this notice number on the subject line; and

(3) Be legible when printed on 8.5- by 11-inch paper.

- *Online form:* We provide a comment form with the online copy of this notice on our Web site at *http://www.ttb.gov/alcohol/rules/index.htm*. Select the "Send comments via e-mail" link under this notice number.
- *Federal e-rulemaking portal:* To submit comments to us via the Federal e-rulemaking portal, visit *http://www.regulations.gov* and follow the instructions for submitting comments.

You may also write to the Administrator before the comment closing date to ask for a public hearing. The Administrator reserves the right to determine whether to hold a public hearing.

Confidentiality

All submitted material is part of the public record and subject to disclosure. Do not enclose any material in your comments that you consider confidential or inappropriate for public disclosure.

Public Disclosure

You may view copies of this notice, the petition, the appropriate maps, and any comments we receive by appointment at the TTB Information Resource Center at 1310 G Street, NW., Washington, DC 20220. You may also obtain copies at 20 cents per 8.5- by 11-inch page. Contact our information specialist at the above address or by telephone at 202–927–2400 to schedule an appointment or to request copies of comments.

We will post this notice and any comments we receive on this proposal on the TTB Web site. All name and address information submitted with comments will be posted, including e-mail addresses. We may omit voluminous attachments or material that we consider unsuitable for posting. In all cases, the full comment will be available in the TTB Information Resource Center. To access the online copy of this notice and the submitted comments, visit *http://www.ttb.gov/alcohol/rules/index.htm*. Select the "View Comments" link under this notice number to view the posted comments.

Regulatory Flexibility Act

We certify that this proposed regulation, if adopted, would not have a significant economic impact on a substantial number of small entities. The proposed regulation imposes no new reporting, recordkeeping, or other administrative requirement. Any benefit derived from the use of a viticultural area name would be the result of a proprietor's efforts and consumer acceptance of wines from that area. Therefore, no regulatory flexibility analysis is required.

Executive Order 12866

This proposed rule is not a significant regulatory action as defined by Executive Order 12866, 58 FR 51735. Therefore, it requires no regulatory assessment.

Drafting Information

N.A. Sutton of the Regulations and Rulings Division drafted this notice.

List of Subjects in 27 CFR Part 9

Wine.

Proposed Regulatory Amendment

For the reasons discussed in the preamble, we propose to amend title 27, chapter 1, part 9, Code of Federal Regulations, as follows:

PART 9—AMERICAN VITICULTURAL AREAS

1. The authority citation for part 9 continues to read as follows:

Authority: 27 U.S.C. 205.

Subpart C—Approved American Viticultural Areas

2. Section 9.53 is amended by revising paragraph (c)(5), redesignating paragraphs (c)(6) through (c)(44) as (c)(9) through (c)(47), and adding new paragraphs (c)(6) through (c)(8) to read as follows:

§ 9.53 Alexander Valley.

* * * * *

(c) * * *

* * * * *

(5) Then straight south along the eastern boundary line of Section 25, to its intersection with Kelly Road, a medium-duty road, T. 11 N., R. 11 W.;

(6) Then southwest along Kelly Road to its intersection with the northern boundary line of Section 36, T. 11 N., R. 11 W.;

(7) Then straight south to its intersection with 38°45′ N. latitude along the southern border of the Cloverdale Quadrangle map, T. 10 N., R. 11 W. and R. 10 W.;

(8) Then straight east to its intersection with the 123°00′ E. longitude at the southeastern corner of the Cloverdale Quadrangle map, T. 10 N., R. 10 W.;

* * * * *

Signed: June 28, 2006.

John J. Manfreda,

Administrator.

[FR Doc. E6–11080 Filed 7–14–06; 8:45 am]

BILLING CODE 4810–31–P

Notices

Federal Register
Vol. 71, No. 136
Monday, July 17, 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

July 11, 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.

Farm Service Agency

Title: Payment Eligibility and Limitation Determinations for the Noninsured Crop Disaster Assistance Program.

OMB Control Number: 0560–0096.

Summary of Collection: The Farm Service Agency (FSA) administers certain farm programs in which the payments are subject and not subject to the established payment limitations. The Farm Security and Rural Investment Act of 2002 amended the provisions of the Food Security Act of 1985 to provide for a $40,000 limitation per crop year on the direct payments; $65,000 per crop year on counter-cyclical payments, $75,000 per crop year on the amount of marketing loan gains and loan deficiency payments a person may receive; and apply the payment eligibility provisions of the 1985 Act to payments made under the direct and counter-cyclical payment program contract, marketing loan gains and loan deficiency payments. FSA will collect information using several forms.

Need and Use of the Information: FSA will collect information to determine the eligibility for payment and the number of "persons" for the application of the payment limitation required for the respective program. Information is captured on different forms depending upon the nature and the type of program participant's farming operation. Without the data, FSA cannot determine whether the individual or the entity requesting program benefits is eligible and or in compliance with the statutory and regulatory requirements of payment eligibility and payment limitation. FSA and the National Appeals Division also use the information on review in the event an appeal is filed by the producer regarding any of the determinations.

Description of Respondents: Farms; Individuals or households; Business or other for-profit.

Number of Respondents: 162,142.

Frequency of Responses: Reporting: On occasion; Annually; Other (as needed).

Total Burden Hours: 266,364.

Ruth Brown,

Departmental Information Collection Clearance Officer.

[FR Doc. E6–11201 Filed 7–14–06; 8:45 am]

BILLING CODE 3410–05–P

DEPARTMENT OF AGRICULTURE

Submission for OMB Review; Comment Request

July 11, 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.

Risk Management

Title: Organic Price Project.
OMB Control Number: 0563–NEW.
Summary of Collection: This collection is in support of a partnership agreement between the Risk Management Agency and the Rodale Institute, as authorized under section 522(d) of the Federal Crop Insurance Act. The agreement with the Rodale Institute will address the development and implementation of a price reporting system for producers of selected organic commodities. Since early 2003, the Rodale Institute has posted prices for around 40 organic products in a file called the "Organic Price Index".
Need and Use of the Information: The price information will be collected weekly by e-mail, telephone, fax, and from Web sites in whatever form is customarily used by the distributor to post prices. The prices are collected from wholesale distributors, sales agencies, and cooperatives that specialize in the marketing of organic products. This information will be disseminated and posted on an existing Web site maintained by the Rodale Institute to assist organic producers and allied interests in price discovery. Fruit and vegetable prices have been collected from organic wholesalers operating in the vicinity of the Seattle and Boston wholesale produce markets. Prices of identical conventional products reported by Agricultural Marketing Service in these markets are also posted for comparison. As part of this project, prices will be collected for a wider array of organic products and in 13 additional market areas.
Description of Respondents: Business or other for-profit; farms; individuals or households.
Number of Respondents: 60.
Frequency of Responses: Reporting: Weekly.
Total Burden Hours: 53.

Charlene Parker,
Departmental Information Clearance Officer.
[FR Doc. E6–11202 Filed 7–14–06; 8:45 am]
BILLING CODE 3410–08–P

DEPARTMENT OF AGRICULTURE

Submission for OMB Review; Comment Request

July 11, 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.

Animal and Plant Health Inspection Service

Title: Specimen Submission.
OMB Control Number: 0579–0090.
Summary of Collection: Under the authority of Title 21, U.S.C., the Secretary of Agriculture is permitted to prevent, control and eliminate domestic diseases such as tuberculosis, as well as to take actions to prevent and to manage exotic diseases such as hog cholera, African swine fever, and other foreign diseases. Disease prevention cannot be accomplished without the existence of an effective disease surveillance program, which includes disease testing, by the National Veterinary Services Laboratories. Information is collected on each animal specimen being submitted for analysis by the Animal and Plant Health Inspection Service (APHIS) using form VS 10–4, "Specimen Submission".
Need and Use of the Information: Using APHIS form VS 10–4, State or Federal veterinarians, accredited veterinarians, or other State and Federal representatives will document the collection and submission of specimens for laboratory analysis. The form identifies the individual animal from which the specimen is taken as well as the animal's herd or flock; the type of specimen submitted, and the purpose of submitting the specimen. Without the information contained on this form, personnel at the National Veterinary Services Laboratories would have no way of identifying or processing the specimens being sent to them for analysis.
Description of Respondents: State, Local or Tribal Government; Farms.
Number of Respondents: 14,000.
Frequency of Responses: Reporting: On occasion.
Total Burden Hours: 7,000.

Ruth Brown,
Departmental Information Collection Clearance Officer.
[FR Doc. E6–11203 Filed 7–14–06; 8:45 am]
BILLING CODE 3410–34–P

DEPARTMENT OF AGRICULTURE

Food and Nutrition Service

Food Distribution Program: Value of Donated Foods from July 1, 2006 Through June 30, 2007

AGENCY: Food and Nutrition Service, USDA.

ACTION: Notice.

SUMMARY: This notice announces the national average value of donated foods or, where applicable, cash in lieu of donated foods, to be provided in school year 2007 (July 1, 2006 through June 30, 2007) for each lunch served by schools participating in the National School Lunch Program (NSLP), and for each lunch and supper served by institutions participating in the Child and Adult Care Food Program (CACFP).

DATES: *Effective Date:* July 1, 2006.

FOR FURTHER INFORMATION CONTACT: Lillie F. Ragan, Assistant Branch Chief, Policy Branch, Food Distribution Division, Food and Nutrition Service, U.S. Department of Agriculture, 3101 Park Center Drive, Alexandria, Virginia 22302 or telephone (703) 305–2662.

SUPPLEMENTARY INFORMATION: These programs are listed in the Catalog of Federal Domestic Assistance under Nos. 10.550, 10.555, and 10.558 and are subject to the provisions of Executive Order 12372, which requires

intergovernmental consultation with State and local officials. (See 7 CFR part 3015, subpart V, and final rule related notice published at 48 FR 29114, June 24, 1983.)

This notice imposes no new reporting or recordkeeping provisions that are subject to Office of Management and Budget review in accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3507). This action is not a rule as defined by the Regulatory Flexibility Act (5 U.S.C. 601–612) and thus is exempt from the provisions of that Act. This notice has been determined to be exempt under Executive Order 12866.

National Average Minimum Value of Donated Foods for the Period July 1, 2006 Through June 30, 2007

This notice implements mandatory provisions of sections 6(c) and 17(h)(1)(B) of the National School Lunch Act (the Act) (42 U.S.C. 1755(c) and 1766(h)(1)(B)). Section 6(c)(1)(A) of the Act establishes the national average value of donated food assistance to be given to States for each lunch served in NSLP at 11.00 cents per meal. Pursuant to section 6(c)(1)(B), this amount is subject to annual adjustments on July 1 of each year to reflect changes in a three-month average value of the Price Index for Foods Used in Schools and Institutions for March, April, and May each year (Price Index). Section 17(h)(1)(B) of the Act provides that the same value of donated foods (or cash in lieu of donated foods) for school lunches shall also be established for lunches and suppers served in CACFP. Notice is hereby given that the national average minimum value of donated foods, or cash in lieu thereof, per lunch under NSLP (7 CFR Part 210) and per lunch and supper under CACFP (7 CFR Part 226) shall be 16.75 cents for the period July 1, 2006 through June 30, 2007.

The Price Index is computed using five major food components in the Bureau of Labor Statistics Producer Price Index (cereal and bakery products; meats, poultry and fish; dairy products; processed fruits and vegetables; and fats and oils). Each component is weighted using the relative weight as determined by the Bureau of Labor Statistics. The value of food assistance is adjusted each July 1 by the annual percentage change in a three-month average value of the Price Index for March, April and May each year. The three-month average of the Price Index decreased by 3.5 percent from 155.03 for March, April and May of 2005 to 149.56 for the same three months in 2006. When computed on the basis of unrounded data and rounded to the nearest one-quarter cent, the resulting national average for the period July 1, 2006 through June 30, 2007 will be 16.75 cents per meal. This is a decrease of 0.75 cents from the school year 2006 (July 1, 2005 through June 30, 2006) rate.

Authority: Sections 6(c)(1)(A) and (B), 6(e)(1), and 17(h)(1)(B) of the National School Lunch Act, as amended (42 U.S.C. 1755(c)(1)(A) and (B) and 6(e)(1), and 1766(h)(1)(B)).

Dated: July 11, 2006.

Jerome A. Lindsay,

Acting Administrator.

[FR Doc. E6–11214 Filed 7–14–06; 8:45 am]

BILLING CODE 3410–30–P

DEPARTMENT OF COMMERCE

International Trade Administration

(A–588–824)

Certain Corrosion–Resistant Carbon Steel Flat Products from Japan: Final Results of Antidumping Duty Administrative Review, and Rescission, In Part

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

SUMMARY: On May 11, 2006, the Department of Commerce ("the Department") published the preliminary results of the antidumping ("AD") administrative review of certain corrosion–resistant carbon steel flat products ("CORE") from Japan. The period of review ("POR") is August 1, 2004, through July 31, 2005. *See Certain Corrosion–Resistant Carbon Steel Flat Products from Japan: Preliminary Results of Antidumping Duty Administrative Review, and Preliminary Intent to Rescind, In part*, 71 FR 27450 (May 11, 2006) ("*Preliminary Results*"). This review covers imports of CORE from Kawasaki Steel Corporation ("Kawasaki") and Nippon Steel Corporation ("Nippon Steel"). We have found that there were no entries of CORE produced by Kawasaki. Therefore, we are rescinding this review with respect to Kawasaki. Because Nippon Steel chose not to participate in this review, we are applying adverse facts available to Nippon Steel. The Department received no comments concerning our preliminary results; therefore, our final results remain unchanged from our preliminary results. The final results are listed in the section "*Final Results of Review*" below.

EFFECTIVE DATE: July 17, 2006.

FOR FURTHER INFORMATION CONTACT: Christopher Hargett, George McMahon, or James Terpstra, AD/CVD Operations, Office 3, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230; telephone (202) 482–4161, (202) 482–1167, or (202) 482–3965, respectively.

SUPPLEMENTARY INFORMATION:

Background

On May 11, 2006, the Department published the preliminary results of the administrative review of the AD order on CORE from Japan. *See Preliminary Results*, 71 FR 27450. This review covers imports of CORE from Kawasaki and Nippon Steel during the POR, August 1, 2004, through July 31, 2005. We invited interested parties to comment on the *Preliminary Results*. We received no comments.

Scope of Order

The products subject to this order include flat–rolled carbon steel products, of rectangular shape, either clad, plated, or coated with corrosion–resistant metals such as zinc, aluminum, or zinc-, aluminum-, nickel- or iron–based alloys, whether or not corrugated or painted, varnished or coated with plastics or other nonmetallic substances in addition to the metallic coating, in coils (whether or not in successively superimposed layers) and of a width of 0.5 inch or greater, or in straight lengths which, if of a thickness less than 4.75 mm, are of a width of 0.5 inch or greater and which measures at least 10 times the thickness, or if of a thickness of 4.75 mm or more, are of a width which exceeds 150 mm and measures at least twice the thickness, as currently classifiable in the Harmonized Tariff Schedule of the United States ("HTSUS") under item numbers: 7210.30.0030, 7210.30.0060, 7210.41.0000, 7210.49.0030, 7210.49.0090, 7210.61.0000, 7210.69.0000, 7210.70.6030, 7210.70.6060, 7210.70.6090, 7210.90.1000, 7210.90.6000, 7210.90.9000, 7212.20.0000, 7212.30.1030, 7212.30.1090, 7212.30.3000, 7212.30.5000, 7212.40.1000, 7212.40.5000, 7212.50.0000, 7212.60.0000, 7215.90.1000, 7215.90.3000, 7215.90.5000, 7217.20.1500, 7217.30.1530, 7217.30.1560, 7217.90.1000, 7217.90.5030, 7217.90.5060, and 7217.90.5090.

Included in the order are flat–rolled products of nonrectangular cross–section where such cross–section is achieved subsequent to the rolling process (*i.e.*, products which have been "worked after rolling") -- for example,

products which have been beveled or rounded at the edges.

Excluded from the scope of the order are flat–rolled steel products either plated or coated with tin, lead, chromium, chromium oxides, both tin and lead ("terne plate"), or both chromium and chromium oxides ("tin–free steel"), whether or not painted, varnished or coated with plastics or other nonmetallic substances in addition to the metallic coating. Also excluded from the scope of the order are clad products in straight lengths of 0.1875 inch or more in composite thickness and of a width which exceeds 150 mm and measures at least twice the thickness. Also excluded from the scope of the order are certain clad stainless flat–rolled products, which are three–layered corrosion–resistant carbon steel flat–rolled products less than 4.75 mm in composite thickness that consist of a carbon steel flat–rolled product clad on both sides with stainless steel in a 20%-60%-20% ratio. *See Antidumping Duty Orders: Certain Corrosion–Resistant Carbon Steel Flat Products From Japan*, 58 FR 44163 (Aug. 19, 1993).

Exclusions due to Changed Circumstances Reviews

The Department has issued the following rulings to date:

Excluded from the scope of this order are imports of certain corrosion–resistant carbon steel flat products meeting the following specifications: widths ranging from 10 mm (0.394 inches) through 100 mm (3.94 inches); thicknesses, including coatings, ranging from 0.11 mm (0.004 inches) through 0.60 mm (0.024 inches); and a coating that is from 0.003 mm (0.00012 inches) through 0.005 mm (0.000196 inches) in thickness and that is comprised of three evenly applied layers, the first layer consisting of 99% zinc, 0.5% cobalt, and 0.5% molybdenum, followed by a layer consisting of chromate, and finally a layer consisting of silicate. *See Certain Corrosion–Resistant Carbon Steel Flat Products From Japan: Final Results of Changed Circumstances Antidumping Duty Administrative Review, and Revocation in Part of Antidumping Duty Order*, 62 FR 66848 (Dec. 22, 1997).

Also excluded from the scope of this order are imports of subject merchandise meeting all of the following criteria: (1) Widths ranging from 10 mm (0.394 inches) through 100 mm (3.94 inches); (2) thicknesses, including coatings, ranging from 0.11 mm (0.004 inches) through 0.60 mm (0.024 inches); and (3) a coating that is from 0.003 mm (0.00012 inches) through 0.005 mm (0.000196 inches) in thickness and that is comprised of either two evenly applied layers, the first layer consisting of 99% zinc, 0.5% cobalt, and 0.5% molybdenum, followed by a layer consisting of chromate, or three evenly applied layers, the first layer consisting of 99% zinc, 0.5% cobalt, and 0.5% molybdenum followed by a layer consisting of chromate, and finally a layer consisting of silicate. *See Certain Corrosion–Resistant Carbon Steel Flat Products From Japan: Final Results of Changed Circumstances Antidumping Duty Administrative Review, and Revocation in Part of Antidumping Duty Order*, 64 FR 14862 (Mar. 29, 1999).

Also excluded from the scope of this order are: (1) Carbon steel flat products measuring 1.84 mm in thickness and 43.6 mm or 16.1 mm in width consisting of carbon steel coil (SAE 1008) clad with an aluminum alloy that is balance aluminum, 20% tin, 1% copper, 0.3% silicon, 0.15% nickel, less than 1% other materials and meeting the requirements of SAE standard 783 for Bearing and Bushing Alloys; and (2) carbon steel flat products measuring 0.97 mm in thickness and 20 mm in width consisting of carbon steel coil (SAE 1008) with a two–layer lining, the first layer consisting of a copper–lead alloy powder that is balance copper, 9% to 11% tin, 9% to 11% lead, less than 1% zinc, less than 1% other materials and meeting the requirements of SAE standard 792 for Bearing and Bushing Alloys, the second layer consisting of 45% to 55% lead, 38% to 50% polytetrafluorethylene ("PTFE"), 3% to 5% molybdenum disulfide and less than 2% other materials. *See Certain Corrosion–Resistant Carbon Steel Flat Products From Japan: Final Results of Changed Circumstances Antidumping Duty Review, and Revocation in Part of Antidumping Duty Order*, 64 FR 57032 (Oct. 22, 1999).

Also excluded from the scope of the order are imports of doctor blades meeting the following specifications: carbon steel coil or strip, plated with nickel phosphorous, having a thickness of 0.1524 mm (0.006 inches), a width between 31.75 mm (1.25 inches) and 50.80 mm (2.00 inches), a core hardness between 580 to 630 HV, a surface hardness between 900--990 HV; the carbon steel coil or strip consists of the following elements identified in percentage by weight: 0.90% to 1.05% carbon; 0.15% to 0.35% silicon; 0.30% to 0.50% manganese; less than or equal to 0.03% of phosphorous; less than or equal to 0.006% of sulfur; other elements representing 0.24%; and the remainder of iron. *See Certain Corrosion–Resistant Carbon Steel Flat Products From Japan: Final Results of Changed Circumstances Review, and Revocation in Part of Antidumping Duty Order*, 65 FR 53983 (Sept. 6, 2000).

Also excluded from the scope of the order are imports of carbon steel flat products meeting the following specifications: carbon steel flat products measuring 1.64 mm in thickness and 19.5 mm in width consisting of carbon steel coil (SAE 1008) with a lining clad with an aluminum alloy that is balance aluminum; 10 to 15% tin; 1 to 3% lead; 0.7 to 1.3% copper; 1.8 to 3.5% silicon; 0.1 to 0.7% chromium; less than 1% other materials and meeting the requirements of SAE standard 783 for Bearing and Bushing Alloys. See Certain Corrosion–Resistant Carbon Steel Flat Products From Japan: Final Results of Changed Circumstances Review, and Revocation in Part of Antidumping Duty Order, 66 FR 8778 (Feb. 2, 2001).

Also excluded from the scope of the order are carbon steel flat products meeting the following specifications: (1) Carbon steel flat products measuring 0.975 mm in thickness and 8.8 mm in width consisting of carbon steel coil (SAE 1012) clad with a two–layer lining, the first layer consisting of a copper–lead alloy powder that is balance copper, 9%-11% tin, 9%-11% lead, maximum 1% other materials and meeting the requirements of SAE standard 792 for Bearing and Bushing Alloys, the second layer consisting of 13%-17% carbon, 13%-17% aromatic polyester, with a balance (approx. 66%-74%) of PTFE; and (2) carbon steel flat products measuring 1.02 mm in thickness and 10.7 mm in width consisting of carbon steel coil (SAE 1008) with a two–layer lining, the first layer consisting of a copper–lead alloy powder that is balance copper, 9%-11% tin, 9%-11% lead, less than 0.35% iron, and meeting the requirements of SAE standard 792 for Bearing and Bushing Alloys, the second layer consisting of 45%-55% lead, 3%-5% molybdenum disulfide, with a balance (approx. 40%-52%) of PTFE. *See Certain Corrosion–Resistant Carbon Steel Flat Products From Japan: Notice of Final Results of Changed Circumstances Review, and Revocation in Part of Antidumping Duty Order*, 66 FR 15075 (Mar. 15, 2001).

Also excluded from this order are carbon steel flat products meeting the following specifications: (1) carbon steel coil or strip, measuring 1.93 mm or 2.75 mm (0.076 inches or 0.108 inches) in thickness, 87.3 mm or 99 mm (3.437 inches or 3.900 inches) in width, with a low carbon steel back comprised of: carbon under 8%, manganese under 0.4%, phosphorous under 0.04%, and sulfur under 0.05%; clad with aluminum alloy comprised of: 0.7% copper, 12% tin, 1.7% lead, 0.3%

antimony, 2.5% silicon, 1% maximum total other (including iron), and remainder aluminum; and (2) carbon steel coil or strip, clad with aluminum, measuring 1.75 mm (0.069 inches) in thickness, 89 mm or 94 mm (3.500 inches or 3.700 inches) in width, with a low carbon steel back comprised of: carbon under 8%, manganese under 0.4%, phosphorous under 0.04%, and sulfur under 0.05%; clad with aluminum alloy comprised of: 0.7% copper, 12% tin, 1.7% lead, 2.5% silicon, 0.3% antimony, 1% maximum total other (including iron), and remainder aluminum. *See Certain Corrosion–Resistant Carbon Steel Flat Products From Japan: Notice of Final Results of Changed Circumstances Review, and Revocation in Part of Antidumping Duty Order*, 66 FR 20967 (Apr. 26, 2001).

Also excluded from this order are carbon steel flat products meeting the following specifications: carbon steel coil or strip, measuring a minimum of and including 1.10 mm to a maximum of and including 4.90 mm in overall thickness, a minimum of and including 76.00 mm to a maximum of and including 250.00 mm in overall width, with a low carbon steel back comprised of: carbon under 0.10%, manganese under 0.40%, phosphorous under 0.04%, sulfur under 0.05%, and silicon under 0.05%; clad with aluminum alloy comprised of: under 2.51% copper, under 15.10% tin, and remainder aluminum as listed on the mill specification sheet. *See Certain Corrosion–Resistant Carbon Steel Flat Products From Japan: Notice of Final Results of Changed Circumstances Review, and Revocation in Part of Antidumping Duty Order*, 67 FR 7356 (Feb. 19, 2002).

Also excluded from this order are products meeting the following specifications: (1) Diffusion–annealed, non–alloy nickel–plated carbon products, with a substrate of cold–rolled battery grade sheet (''CRBG'') with both sides of the CRBG initially electrolytically plated with pure, unalloyed nickel and subsequently annealed to create a diffusion between the nickel and iron substrate, with the nickel plated coating having a thickness of 0–5 microns per side with one side equaling at least 2 microns; and with the nickel carbon sheet having a thickness of from 0.004'' (0.10 mm) to 0.030'' (0.762 mm) and conforming to the following chemical specifications (%): C ≤ 0.08; Mn ≤ 0.45; P ≤ 0.02; S ≤ 0.02; Al ≤ 0.15; and Si ≤ 0.10; and the following physical specifications: Tensile = 65 KSI maximum; Yield = 32 - 55 KSI; Elongation = 18% minimum (aim 34%); Hardness = 85 - 150 Vickers; Grain Type = Equiaxed or Pancake; Grain Size (ASTM) = 7–12; Delta r value = aim less than 0.2; Lankford value ≥ 1.2.; and (2) next generation diffusion–annealed nickel plate meeting the following specifications: (a) Nickel–graphite plated, diffusion–annealed, tin–nickel plated carbon products, with a natural composition mixture of nickel and graphite electrolytically plated to the top side of diffusion–annealed tin–nickel plated carbon steel strip with a cold rolled or tin mill black plate base metal conforming to chemical requirements based on AISI 1006; having both sides of the cold rolled substrate electrolytically plated with natural nickel, with the top side of the nickel plated strip electrolytically plated with tin and then annealed to create a diffusion between the nickel and tin layers in which a nickel–tin alloy is created, and an additional layer of mixture of natural nickel and graphite then electrolytically plated on the top side of the strip of the nickel–tin alloy; having a coating thickness: top side: nickel–graphite, tin–nickel layer ≥ 1.0 micrometers; tin layer only ≥ 0.05 micrometers, nickel–graphite layer only ≤ 0.2 micrometers, and bottom side: nickel layer ≥ 1.0 micrometers; (b) nickel–graphite, diffusion–annealed, nickel plated carbon products, having a natural composition mixture of nickel and graphite electrolytically plated to the top side of diffusion–annealed nickel plated steel strip with a cold rolled or tin mill black plate base metal conforming to chemical requirements based on AISI 1006; with both sides of the cold rolled base metal initially electrolytically plated with natural nickel, and the material then annealed to create a diffusion between the nickel and the iron substrate; with an additional layer of natural nickel–graphite then electrolytically plated on the top side of the strip of the nickel plated steel strip; with the nickel–graphite, nickel plated material sufficiently ductile and adherent to the substrate to permit forming without cracking, flaking, peeling, or any other evidence of separation; having a coating thickness: top side: nickel–graphite, tin–nickel layer ≥ 1.0 micrometers; nickel–graphite layer ≥ 0.5 micrometers; bottom side: nickel layer ≥ 1.0 micrometers; (c) diffusion–annealed nickel–graphite plated products, which are cold–rolled or tin mill black plate base metal conforming to the chemical requirements based on AISI 1006; having the bottom side of the base metal first electrolytically plated with natural nickel, and the top side of the strip then plated with a nickel–graphite composition; with the strip then annealed to create a diffusion of the nickel–graphite and the iron substrate on the bottom side; with the nickel–graphite and nickel plated material sufficiently ductile and adherent to the substrate to permit forming without cracking, flaking, peeling, or any other evidence of separation; having coating thickness: top side: nickel–graphite layer ≥ 1.0 micrometers; bottom side: nickel layer ≥ 1.0 micrometers; (d) nickel–phosphorous plated diffusion–annealed nickel plated carbon product, having a natural composition mixture of nickel and phosphorus electrolytically plated to the top side of a diffusion–annealed nickel plated steel strip with a cold rolled or tin mill black plate base metal conforming to the chemical requirements based on AISI 1006; with both sides of the base metal initially electrolytically plated with natural nickel, and the material then annealed to create a diffusion of the nickel and iron substrate; another layer of the natural nickel–phosphorous then electrolytically plated on the top side of the nickel plated steel strip; with the nickel–phosphorous, nickel plated material sufficiently ductile and adherent to the substrate to permit forming without cracking, flaking, peeling or any other evidence of separation; having a coating thickness: top side: nickel–phosphorous, nickel layer ≥ 1.0 micrometers; nickel–phosphorous layer ≥ 0.1 micrometers; bottom side: nickel layer ≥ 1.0 micrometers; (e) diffusion–annealed, tin–nickel plated products, electrolytically plated with natural nickel to the top side of a diffusion–annealed tin–nickel plated cold rolled or tin mill black plate base metal conforming to the chemical requirements based on AISI 1006; with both sides of the cold rolled strip initially electrolytically plated with natural nickel, with the top side of the nickel plated strip electrolytically plated with tin and then annealed to create a diffusion between the nickel and tin layers in which a nickel–tin alloy is created, and an additional layer of natural nickel then electrolytically plated on the top side of the strip of the nickel–tin alloy; sufficiently ductile and adherent to the substrate to permit forming without cracking, flaking, peeling or any other evidence of separation; having coating thickness: top side: nickel–tin–nickel combination layer ≥ 1.0 micrometers; tin layer only ≥ 0.05 micrometers; bottom side: nickel layer ≥ 1.0 micrometers; and (f) tin mill products for battery containers, tin and

nickel plated on a cold rolled or tin mill black plate base metal conforming to chemical requirements based on AISI 1006; having both sides of the cold rolled substrate electrolytically plated with natural nickel; then annealed to create a diffusion of the nickel and iron substrate; then an additional layer of natural tin electrolytically plated on the top side; and again annealed to create a diffusion of the tin and nickel alloys; with the tin–nickel, nickel plated material sufficiently ductile and adherent to the substrate to permit forming without cracking, flaking, peeling or any other evidence of separation; having a coating thickness: top side: nickel–tin layer ≥1 micrometer; tin layer alone ≥0.05 micrometers; bottom side: nickel layer ≥1.0 micrometer. *See Certain Corrosion–Resistant Carbon Steel Flat Products From Japan: Notice of Final Results of Changed Circumstances Review, and Revocation in Part of Antidumping Duty Order*, 67 FR 47768 (Jul. 22, 2002).

Also excluded from this order are products meeting the following specifications: (1) Widths ranging from 10 mm (0.394 inches) through 100 mm (3.94 inches); (2) thicknesses, including coatings, ranging from 0.11 mm (0.004 inches) through 0.60 mm (0.024 inches); and (3) a coating that is from 0.003 mm (0.00012 inches) through 0.005 mm (0.000196 inches) in thickness and that is comprised of either two evenly applied layers, the first layer consisting of 99% zinc, 0.5% cobalt, and 0.5% molybdenum, followed by a layer consisting of phosphate, or three evenly applied layers, the first layer consisting of 99% zinc, 0.5% cobalt, and 0.5% molybdenum followed by a layer consisting of phosphate, and finally a layer consisting of silicate. *See Certain Corrosion–Resistant Carbon Steel Flat Products From Japan: Notice of Final Results of Changed Circumstances Review, and Revocation in Part of Antidumping Duty Order*, 67 FR 57208 (Sept. 9, 2002).

Also excluded from this order are products meeting the following specifications: (1) Flat–rolled products (provided for in HTSUS subheading 7210.49.00), other than of high–strength steel, known as "ASE Iron Flash" and either: (A) having a base layer of zinc–based zinc–iron alloy applied by hot–dipping and a surface layer of iron–zinc alloy applied by electrolytic process, the weight of the coating and plating not over 40% by weight of zinc; or (B) two–layer-coated corrosion–resistant steel with a coating composed of (a) a base coating layer of zinc–based zinc–iron alloy by hot–dip galvanizing process, and (b) a surface coating layer of iron–zinc alloy by electro–galvanizing process, having an effective amount of zinc up to 40% by weight, and (2) corrosion resistant continuously annealed flat–rolled products, continuous cast, the foregoing with chemical composition (percent by weight): carbon not over 0.06% by weight, manganese 0.20 or more but not over 0.40, phosphorus not over 0.02, sulfur not over 0.023, silicon not over 0.03, aluminum 0.03 or more but not over 0.08, arsenic not over 0.02, copper not over 0.08 and nitrogen 0.003 or more but not over 0.008; and meeting the characteristics described below: (A) Products with one side coated with a nickel–iron-diffused layer which is less than 1 micrometer in thickness and the other side coated with a two–layer coating composed of a base nickel–iron-diffused coating layer and a surface coating layer of annealed and softened pure nickel, with total coating thickness for both layers of more than 2 micrometers; surface roughness (RA–microns) 0.18 or less; with scanning electron microscope (SEM) not revealing oxides greater than 1 micron; and inclusion groups or clusters shall not exceed 5 microns in length; (B) products having one side coated with a nickel–iron-diffused layer which is less than 1 micrometer in thickness and the other side coated with a four–layer coating composed of a base nickel–iron-diffused coating layer; with an inner middle coating layer of annealed and softened pure nickel, an outer middle surface coating layer of hard nickel and a topmost nickel–phosphorus-plated layer; with combined coating thickness for the four layers of more than 2 micrometers; surface roughness (RA–microns) 0.18 or less; with SEM not revealing oxides greater than 1 micron; and inclusion groups or clusters shall not exceed 5 microns in length; (C) products having one side coated with a nickel–iron-diffused layer which is less than 1 micrometer in thickness and the other side coated with a three–layer coating composed of a base nickel–iron-diffused coating layer, with a middle coating layer of annealed and softened pure nickel and a surface coating layer of hard, luster–agent-added nickel which is not heat–treated; with combined coating thickness for all three layers of more than 2 micrometers; surface roughness (RA–microns) 0.18 or less; with SEM not revealing oxides greater than 1 micron; and inclusion groups or clusters shall not exceed 5 microns in length; or (D) products having one side coated with a nickel–iron-diffused layer which is less than 1 micrometer in thickness and the other side coated with a three–layer coating composed of a base nickel–iron-diffused coating layer, with a middle coating layer of annealed and softened pure nickel and a surface coating layer of hard, pure nickel which is not heat–treated; with combined coating thickness for all three layers of more than 2 micrometers; surface roughness (RA–microns) 0.18 or less; SEM not revealing oxides greater than 1 micron; and inclusion groups or clusters shall not exceed 5 microns in length. *See Certain Corrosion–Resistant Carbon Steel Flat Products From Japan: Notice of Final Results of Changed Circumstances Review, and Revocation in Part of Antidumping Duty Order*, 68 FR 19970 (Apr. 23, 2003).

Also excluded from the scope of this order is merchandise meeting the following specifications: (1) Base metal: Aluminum Killed, Continuous Cast, Carbon Steel SAE 1008, (2) Chemical Composition: Carbon 0.08% max., Silicon 0.03% max., Manganese 0.40% max., Phosphorus 0.020% max., Sulfur 0.020% max., (3) Nominal thickness of 0.054 mm, (4) Thickness tolerance minimum 0.0513 mm, maximum 0.0567 mm, (5) Width of 600 mm or greater, and (7) Nickel plate min. 2.45 microns per side. See Notice of Final Results of Antidumping Duty Changed Circumstances Review and Revocation, In Part: Certain Corrosion–Resistant Carbon Steel Flat Products From Japan, 70 FR 2608 (Jan. 14, 2005).

Also excluded from the scope of this order are the following 24 separate corrosion–resistant carbon steel coil products meeting the following specifications:

Product 1 Products described in industry usage as of carbon steel, measuring 1.625 mm to 1.655 mm in thickness and 19.3 mm to 19.7 mm in width, consisting of carbon steel coil (SAE 1010) with a lining clad with an aluminum alloy containing by weight 10% or more but not more than 15% of tin, 1% or more but not more than 3% of lead, 0.7% or more but not more than 1.3% of copper, 1.8% or more but not more than 3.5% of silicon, 0.1% or more but not more than 0.7% of chromium and less than or equal to 1% of other materials, and meeting the requirements of SAE standard 788 for Bearing and Bushing Alloys.

Product 2 Products described in industry usage as of carbon steel, measuring 0.955 mm to 0.985 mm in thickness and 8.6 mm to 9.0 mm in width, consisting of carbon steel coil (SAE 1012) clad with a two–layer lining, the first layer consisting of a copper–lead alloy powder that contains by weight 9% or more but not more than

11% of tin, 9% or more but not more than 11% of lead, less than 0.05% phosphorus, less than 0.35% iron and less than or equal to 1% other materials, and meeting the requirements of SAE standard 797 for Bearing and Bushing Alloys, with the second layer containing by weight 13% or more but not more than 17% of carbon, 13% or more but not more than 17% of aromatic polyester, and the remainder (approx. 66–74%) of PTFE.

Product 3 Products described in industry usage as of carbon steel, measuring 1.01 mm to 1.03 mm in thickness and 10.5 mm to 10.9 mm in width, consisting of carbon steel coil (SAE 1010) with a two–layer lining, the first layer consisting of a copper–lead alloy powder that contains by weight 9% or more but not more than 11% of tin, 9% or more but not more than 11% of lead, less than 1% zinc and less than or equal to 1% other materials, and meeting the requirements of SAE standard 797 for Bearing and Bushing Alloys, with the second layer containing by weight 45% or more but not more than 55% of lead, 3% or more but not more than 5% of molybdenum disulfide, and the remainder made up of PTFE (approximately 38% to 52%) and less than 2% in the aggregate of other materials.

Product 4 Products described in industry usage as of carbon steel, measuring 1.8 mm to 1.88 mm in thickness and 43.4 mm to 43.8 mm or 16.1 mm to 1.65 mm in width, consisting of carbon steel coil (SAE 1010) clad with an aluminum alloy that contains by weight 19% to 20% tin, 1% to 1.2% copper, less than 0.3% silicon, 0.15% nickel and less than 1% in the aggregate other materials and meeting the requirements of SAE standard 783 for Bearing and Bushing Alloys.

Product 5 Products described in industry usage as of carbon steel, measuring 0.95 mm to 0.98 mm in thickness and 19.95 mm to 20 mm in width, consisting of carbon steel coil (SAE 1010) with a two–layer lining, the first layer consisting of a copper–lead alloy powder that contains by weight 9% or more but not more than 11% of tin, 9% or more but not more than 11% of lead, less than 1% of zinc and less than or equal to 1% in the aggregate of other materials and meeting the requirements of SAE standard 797 for Bearing and Bushing Alloys, with the second layer consisting by weight of 45% or more but not more than 55% of lead, 3% or more but not more than 5% of molybdenum disulfide and with the remainder made up of PTFE (approximately 38% to 52%) and up to 2% in the aggregate of other materials.

Product 6 Products described in industry usage as of carbon steel, measuring 0.96 mm to 0.98 mm in thickness and 18.75 mm to 18.95 mm in width; base of SAE 1010 steel with a two–layer lining, the first layer consisting of copper–base alloy powder with chemical composition (percent by weight): tin 9 to 11, lead 9 to 11, phosphorus less than 0.05, ferrous group less than 0.35, and other materials less than 1%; meeting the requirements of SAE standard 797 for bearing and bushing alloys; the second layer consisting of lead 33 to 37%, aromatic polyester 28 to 32%, and other materials less than 2% with a balance of PTFE.

Product 7 Products described in industry usage as of carbon steel, measuring 1.21 mm to 1.25 mm in thickness and 19.4 mm to 19.6 mm in width; base of SAE 1012 steel with lining of copper base alloy with chemical composition (percent by weight): tin 9 to 11, lead 9 to 11, phosphorus less than 0.05, ferrous group less than 0.35 and other materials less than 1%; meeting the requirements of SAE standard 797 for bearing and bushing alloys.

Product 8 Products described in industry usage as of carbon steel, measuring 0.96 mm to 0.98 mm in thickness and 21.5 mm to 21.7 mm in width; base of SAE 1010 steel with a two–layer lining, the first layer consisting of copper–base alloy powder with chemical composition (percent by weight): tin 9 to 11, lead 9 to 11, phosphorus less than 0.05%, ferrous group less than 0.35 and other materials less than 1; meeting the requirements of SAE standard 797 for bearing and bushing alloys; the second layer consisting of (percent by weight) lead 33 to 37, aromatic polyester 28 to 32 and other materials less than 2 with a balance of PTFE.

Product 9 Products described in industry usage as of carbon steel, measuring 0.96 mm to 0.99 mm in thickness and 7.65 mm to 7.85 mm in width; base of SAE 1012 steel with a two–layer lining, the first layer consisting of copper–based alloy powder with chemical composition (percent by weight): tin 9 to 11, lead 9 to 11, phosphorus less than 0.05, ferrous group less than 0.35 and other materials less than 1; meeting the requirements of SAE standard 797 for bearing and bushing alloys; the second layer consisting of (percent by weight) carbon 13 to 17 and aromatic polyester 13 to 17, with a balance of PTFE.

Product 10 Products described in industry usage as of carbon steel, measuring 0.955 mm to 0.985 mm in thickness and 13.6 mm to 14 mm in width; base of SAE 1012 steel with a two–layer lining, the first layer consisting of copper–based alloy powder with chemical composition (percent by weight): tin 9 to 11, lead 9 to 11, phosphorus less than 0.05, ferrous group less than 0.35 and other materials less than 1; meeting the requirements of SAE standard 797 for bearing and bushing alloys; the second layer consisting of (percent by weight) carbon 13 to 17, aromatic polyester 13 to 17, with a balance (approximately 66 to 74) of PTFE.

Product 11 Products described in industry usage as of carbon steel, measuring 1.2 mm to 1.24 mm in thickness; 20 mm to 20.4 mm in width; consisting of carbon steel coils (SAE 1012) with a lining of sintered phosphorus bronze alloy with chemical composition (percent by weight): tin 5.5 to 7; phosphorus 0.03 to 0.35; lead less than 1 and other non–copper materials less than 1.

Product 12 Products described in industry usage as of carbon steel, measuring 1.8 mm to 1.88 mm in thickness and 43.3 mm to 43.7 mm in width; base of SAE 1010 steel with a lining of aluminum based alloy with chemical composition (percent by weight: tin 10 to 15, lead 1 to 3, copper 0.7 to 1.3, silicon 1.8 to 3.5, chromium 0.1 to 0.7 and other materials less than 1; meeting the requirements of SAE standard 788 for bearing and bushing alloys.

Product 13 Products described in industry usage as of carbon steel, measuring 1.8 mm to 1.88 mm in thickness and 24.2 mm to 24.6 mm in width; base of SAE 1010 steel with a lining of aluminum alloy with chemical composition (percent by weight): tin 10 to 15, lead 1 to 3, copper 0.7 to 1.3, silicon 1.8 to 3.5, chromium 0.1 to 0.7 and other materials less than 1; meeting the requirements of SAE standard 788 for bearing and bushing alloys.

Product 14 Flat–rolled coated SAE 1009 steel in coils, with thickness not less than 0.915 mm but not over 0.965 mm, width not less than 19.75 mm or more but not over 20.35 mm; with a two–layer coating; the first layer consisting of tin 9 to 11%, lead 9 to 11%, zinc less than 1%, other materials (other than copper) not over 1% and balance copper; the second layer consisting of lead 45 to 55%, molybdenum disulfide (MoS_2) 3 to 5%, other materials not over 2%, balance PTFE.

Product 15 Flat–rolled coated SAE 1009 steel in coils with thickness not less than 0.915 mm or more but not over 0.965 mm; width not less than 18.65 mm or more but not over 19.25 mm; with a two–layer coating; the first layer

consisting of tin 9 to 11%, lead 9 to 11%, zinc less than 1%, other materials (other than copper) not over 1%, balance copper; the second layer consisting of lead 33 to 37%, aromatic polyester 13 to 17%, other materials other than PTFE less than 2%, balance PTFE.

Product 16 Flat–rolled coated SAE 1009 steel in coils with thickness not less than 0.920 mm or more but not over 0.970 mm; width not less than 21.35 mm or more but not over 21.95 mm; with a two–layer coating; the first layer consisting of tin 9 to 11%, lead 9 to 11%, zinc less than 1%, other materials (other than copper) not over 1%, balance copper; the second layer consisting of lead 33 to 37%, aromatic polyester 13 to 17%, other materials (other than PTFE) less than 2%, balance PTFE.

Product 17 Flat–rolled coated SAE 1009 steel in coils with thickness not less than 1.80 mm or more but not over 1.85 mm, width not less than 14.7 mm or more but not over 15.3 mm; with a lining consisting of tin 2.5 to 4.5%, lead 21.0 to 25.0%, zinc less than 3%, iron less than 0.35%, other materials (other than copper) less than 1%, balance copper.

Product 18 Flat–rolled coated SAE 1009 steel in coils with thickness 1.59 mm or more but not over 1.64 mm; width 14.5 mm or more but not over 15.1 mm; with a lining consisting of tin 2.3 to 4.2%, lead 20 to 25%, iron 1.5 to 4.5%, phosphorus 0.2 to 2.0%, other materials (other than copper) less than 1%, balance copper.

Product 19 Flat–rolled coated SAE 1009 steel in coils with thickness not less than 1.75 mm or more but not over 1.8 mm; width not less than 18.0 mm or more but not over 18.6 mm; with a lining consisting of tin 2.3 to 4.2%, lead 20 to 25%, iron 1.5 to 4.5%, phosphorus 0.2 to 2.0%, other materials (other than copper) less than 1%, balance copper.

Product 20 Flat–rolled coated SAE 1009 steel in coils with thickness 1.59 mm or more but not over 1.64 mm; width 13.6 mm or more but not over 14.2 mm; with a lining consisting of tin 2.3 to 4.2%, lead 20 to 25%, iron 1.5 to 4.5%, phosphorus 0.2 to 2.0%, other materials (other than copper) less than 1%, with a balance copper.

Product 21 Flat–rolled coated SAE 1009 steel in coils with thickness 1.59 mm or more but not over 1.64 mm; width 11.5 mm or more but not over 12.1 mm; with a lining consisting of tin 2.3 to 4.2%, lead 20 to 25%, iron 1.5 to 4.5%, phosphorus 0.2 to 2.0%, other materials (other than copper) less than 1%, balance copper.

Product 22 Flat–rolled coated SAE 1009 steel in coils with thickness 1.59 mm or more but not over 1.64 mm; width 11.2 mm or more but not over 11.8 mm, with a lining consisting of copper 0.7 to 1.3%, tin 17.5 to 22.5%, silicon less than 0.3%, nickel less than 0.15%, other materials less than 1%, balance aluminum.

Product 23 Flat–rolled coated SAE 1009 steel in coils with thickness 1.59 mm or more but not over 1.64 mm; width 7.2 mm or more but not over 7.8 mm; with a lining consisting of copper 0.7 to 1.3%, tin 17.5 to 22.5%, silicon less than 0.3%, nickel less than 0.15%, other materials (other than copper) less than 1%, balance copper.

Product 24 Flat–rolled coated SAE 1009 steel in coils with thickness 1.72 mm or more but not over 1.77 mm; width 7.7 mm or more but not over 8.3 mm; with a lining consisting of copper 0.7 to 1.3%, tin 17.5 to 22.5%, silicon less than 0.3%, nickel less than 0.15%, other materials (other than copper) less than 1%, balance copper. *See Notice of Final Results of Antidumping Duty Changed Circumstances Review and Revocation, in Part: Certain Corrosion–Resistant Carbon Steel Flat Products From Japan*, 70 FR 5137 (Feb. 1, 2005).

Rescission, In part

Pursuant to 19 CFR 351.213(d)(3), we are rescinding this administrative review with respect to Kawasaki because the Department found no shipments of CORE by Kawasaki during the POR. *See Preliminary Results*, 71 FR at 27451.

Facts Available

In the *Preliminary Results*, the Department determined that the use of adverse facts available ("AFA") was warranted in accordance with section 776(a) and (b) of the Tariff Act of 1930, as amended ("the Act"), with respect to Nippon Steel. *See Preliminary Results*, 71 FR at 27456. Section 776(a)(2) of the Act states that the Department may use "facts available" if an interested party (A) withholds information that has been requested by the Department, (B) fails to provide information in the time and manner requested, (C) significantly impedes a proceeding under this title or (D) provides such information but the information cannot be verified. *See also* 19 CFR 351.308(a). Furthermore, pursuant to section 776(b) of the Act, the Department may apply an adverse inference if it finds a respondent has not acted to the best of its ability in the conduct of the administrative review. Because Nippon Steel responded to the Department's questionnaire with a letter stating it would not participate in this review, we preliminarily determined that it did not cooperate to the best of its ability. *See Preliminary Results*, 71 FR at 27456. Since the preliminary results, nothing has changed to reverse our preliminary decision regarding Nippon Steel. Further, the Department received no comment addressing the Department's preliminary results from Nippon Steel or any other interested party. Therefore, pursuant to section 776(a) and (b) of the Act, we have continued to make an adverse inference with respect to Nippon Steel by assigning to its exports of the subject merchandise a rate of 36.41 percent *ad valorem*, the margin calculated for Nippon Steel in the original less–than–fair–value ("LTFV") investigation using information provided by Nippon Steel. *See Antidumping Duty Orders: Certain Corrosion–Resistant Carbon Steel Flat Products From Japan*, 58 FR 44163 (Aug. 19, 1993) ("*AD Orders from Japan*").

Corroboration of Facts Available

Section 776(c) of the Act requires that the Department corroborate, to the extent practicable, a figure based on secondary information which it applies as AFA. *See also* 19 CFR 351.308(d). To be considered corroborated, the information must be found to be both reliable and relevant, and thus determined to have probative value. *See* Statement of Administrative Action Accompanying the Uruguay Round Agreements Act, H.R. Rep. No. 103–316, at 870 (1994) ("SAA"), reprinted in 1994 U.S.C.C.A.N. 4040, 4198–99. For the reasons explained above, we are applying as AFA the rate calculated for Nippon Steel in the LTFV investigation, 36.19 percent. *See AD Orders from Japan* 58 FR 44163. For the reasons stated in the *Preliminary Results*, 71 FR 27450, the Department finds this rate to be both reliable and relevant, and, therefore, to have probative value in accordance with the SAA. *See* SAA at 870. Neither Nippon Steel nor any other interested party submitted comments regarding the Department's preliminary corroboration analysis for purposes of the final results. Therefore, we have continued to assign to exports of the subject merchandise by Nippon Steel the rate of 36.41 percent.

Final Results of Review

As noted above, the Department received no comments concerning the preliminary results. As there have been no changes from or comments on the preliminary results, we are not attaching a Decision Memorandum to this **Federal Register** notice. For further details of the

issues addressed in this proceeding, see the *Preliminary Results*.

The final dumping margin is as follows:

CORROSION–RESISTANT CARBON STEEL FLAT PRODUCTS FROM JAPAN

Producer/manufacturer/ exporter	Dumping Margin (percent)
Nippon Steel	36.41

Assessment

The Department will determine, and U.S. Customs and Border Protection ("CBP") shall assess, antidumping duties on all appropriate entries, pursuant to 19 CFR 351.212(b). We will direct CBP to assess the dumping rate listed above against all subject merchandise manufactured or exported by Nippon Steel, and entered or withdrawn from warehouse for consumption during the POR. The Department will issue appropriate assessment instructions directly to CBP within 15 days of publication of these final results of review.

Cash Deposit Requirements

The following cash deposit requirements will be effective for all shipments of the subject merchandise from Japan entered, or withdrawn from warehouse, for consumption on or after the date of publication of the final results of this administrative review, as provided by section 751(a)(1) of the Act: (1) The cash deposit rate for Nippon Steel will be 36.41 percent; (2) for previously reviewed or investigated companies not listed above, the cash deposit rate will continue to be the company–specific rate published for the most recent period; (3) if the exporter is not a firm covered in this review, a prior review, or the original LTFV investigation, but the manufacturer is, the cash deposit rate will be the rate established for the most recent period for the manufacturer of the merchandise; and (4) the cash deposit rate for all other manufacturers or exporters will be 36.41 percent, the "All Others" rate established in the LTFV investigation. *See AD Orders from Japan*, 58 FR 44163.

Notification to Importers

This notice also serves as final reminder to importers of their responsibility under 19 CFR 351.402(f) to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in the Secretary's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of double antidumping duties.

Administrative Protective Orders

This notice also serves as a reminder to parties subject to administrative protective orders (APOs) of their responsibility concerning the return or destruction of proprietary information disclosed under APO in accordance with 19 CFR 351.305. 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 terms of an APO is a violation that is subject to sanction.

This administrative review and notice are issued and published in accordance with sections 751(a)(1) and 777(i)(1) of the Act.

Dated: July 11, 2006.

David M. Spooner,

Assistant Secretary for Import Administration.

[FR Doc. E6–11286 Filed 7–14–06; 8:45 am]

BILLING CODE 3510–DS–S

DEPARTMENT OF COMMERCE

International Trade Administration

A–570–851

Certain Preserved Mushrooms from the People's Republic of China: Final Results and Final Partial Rescission of the Sixth Administrative Review

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

SUMMARY: On March 10, 2005, the Department of Commerce (the "Department") published in the **Federal Register** the preliminary results of the administrative review of the antidumping duty order on certain preserved mushrooms from the People's Republic of China ("PRC"). *See Certain Preserved Mushrooms from the People's Republic of China: Partial Rescission and Preliminary Results of the Sixth Administrative Review*, 70 FR 11183 (March 6, 2006) ("*Preliminary Results*"). We provided interested parties an opportunity to comment on the *Preliminary Results*. Based upon our analysis of the comments and information received, we made changes to certain surrogate value calculation which affect the dumping margin calculation for Raoping Yucun Canned Foods Factory ("Raoping Yucun") in these final results. We find that certain manufacturers/exporters sold subject merchandise at less than normal value during the period of review ("POR").

EFFECTIVE DATE: July 17, 2006.

FOR FURTHER INFORMATION CONTACT: Paul Walker, AD/CVD Operations, Office 9, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482–0413.

SUPPLEMENTARY INFORMATION:

Case History

The *Preliminary Results* in this administrative review were published on March 6, 2005. Since the *Preliminary Results*, the following events have occurred:

On April, 10, 2006, Raoping Yucun submitted surrogate value information.

On April 14, 2006, Raoping Yucun submitted its case brief. On April 19, 2006, the Department rejected Raoping Yucun's case brief because it contained new factual information. On April 21, 2006, Raoping Yucun submitted a revised case brief. On May 16, 2006, the Department rejected Raoping Yucun's revised case brief because it failed to remove all new factual information. On May 17, 2006, Raoping Yucun submitted a second revised case brief.

Scope Of The Order

The products covered by this order are certain preserved mushrooms, whether imported whole, sliced, diced, or as stems and pieces. The certain preserved mushrooms covered under this order are the species *Agaricus bisporus* and *Agaricus bitorquis*. "Certain Preserved Mushrooms" refer to mushrooms that have been prepared or preserved by cleaning, blanching, and sometimes slicing or cutting. These mushrooms are then packed and heated in containers including, but not limited to, cans or glass jars in a suitable liquid medium, including, but not limited to, water, brine, butter or butter sauce. Certain preserved mushrooms may be imported whole, sliced, diced, or as stems and pieces. Included within the scope of this order are "brined" mushrooms, which are presalted and packed in a heavy salt solution to provisionally preserve them for further processing.

Excluded from the scope of this order are the following: (1) All other species of mushroom, including straw mushrooms; (2) all fresh and chilled mushrooms, including "refrigerated" or "quick blanched mushrooms"; (3) dried mushrooms; (4) frozen mushrooms; and (5) "marinated," "acidified," or "pickled" mushrooms, which are prepared or preserved by means of

vinegar or acetic acid, but may contain oil or other additives.[1]

The merchandise subject to this order is classifiable under subheadings: 2003.10.0127, 2003.10.0131, 2003.10.0137, 2003.10.0143, 2003.10.0147, 2003.10.0153 and 0711.51.0000 of the Harmonized Tariff Schedule of the United States ("HTSUS"). Although the HTSUS subheadings are provided for convenience and customs purposes, the written description of the scope of this order is dispositive.

Rescission Of Review

In the *Preliminary Results*, we preliminarily rescinded the review with respect to Green Fresh Foods (Zhangzhou) Co., Ltd. ("Green Fresh"), which reported that it did not sell merchandise subject to the antidumping duty order during the POR. *See Preliminary Results*, 70 FR at 11184. Since the issuance of the *Preliminary Results*, no party has placed evidence on the record demonstrating that Green Fresh exported subject merchandise during the POR. Therefore, in accordance with 19 CFR 351.213(d)(3) and consistent with the Department's practice, we are rescinding this administrative review with respect to Green Fresh.

Analysis Of Comments Received

All issues raised in Raoping Yucun's case brief are listed in the Appendix to this notice and are addressed in the Issues and Decision Memorandum, which is hereby adopted by this notice. Parties can find a complete discussion of the issues raised in this administrative review, and the corresponding recommendations in this public memorandum, which is on file in the Central Records Unit ("CRU"), room B–099 of the main Department building. In addition, a complete version of the Issues and Decision Memorandum can be accessed directly on the internet at http://ia.ita.doc.gov/. The paper copy and electronic version of the Issues and Decision Memorandum are identical in content.

[1] On June 19, 2000, the Department affirmed that "marinated," "acidified," or "pickled" mushrooms containing less than 0.5 percent acetic acid are within the scope of the antidumping duty order. *See* "Recommendation Memorandum-Final Ruling of Request by Tak Fat, *et al.* for Exclusion of Certain Marinated, Acidified Mushrooms from the Scope of the Antidumping Duty Order on Certain Preserved Mushrooms from the People's Republic of China," dated June 19, 2000. On February 9, 2005, this decision was upheld by the United States Court of Appeals for the Federal Circuit. *See Tak Fat v. United States*, 39C F.3d 1378 (Fed. Cir. 2005).

Changes Since The Preliminary Results

Based on the comments received from the interested parties, we have made changes to certain surrogate value calculations that affect the margin calculation for Raoping Yucun. For a discussion of these changes, *see* the Issues and Decision Memorandum, at Comments 1 and 5.

Facts Available

In the *Preliminary Results*, we based the dumping margins for Primera Harvest (Xiangfan) Incorporated ("PHX"), Gerber Food (Yunnan) Co., Ltd. ("Gerber") and Guangxi Yulin Oriental Food Co., Ltd. ("Guangxi Yulin") on total adverse facts available ("AFA") for their sales of subject merchandise pursuant to sections 776(a) and 776(b) of the Tariff Act of 1930, as amended (the "Act"). *See Preliminary Results*, 70 FR at 11938–39.

We continue to apply total AFA to PHX because PHX withdrew from the instant administrative review, which significantly impeded our ability to conduct this review with respect to PHX. We continue to apply total AFA to Gerber and Guangxi Yulin because they did not respond to the Department's antidumping duty questionnaires, which significantly impeded our ability to conduct this review with respect to Gerber and Guangxi Yulin. Lastly, we continue to find that PHX, Gerber and Guangxi Yulin did not establish entitlement to a separate rate and thus are a part of the PRC–wide entity in this review. Because they failed to provide requested information, we continue to find that it is appropriate to apply facts available to PHX, Gerber and Guangxi Yulin in accordance with sections 776(a)(2)(A), (B), and (C) of the Act.

In addition, we continue to find, in accordance with section 776(b) of the Act, that AFA is appropriate. For these final results, we continue to find that as AFA, the PRC–wide entity rate of 198.63 is appropriate.

A complete explanation of the selection, corroboration, and application of AFA can be found in the *Preliminary Results*. *See Preliminary Results*, 70 FR at 11186. The Department has not received comments with regard to our selection and application of AFA. Nothing has changed since the *Preliminary Results* that would affect the Department's selection, corroboration, and application of AFA for the above–referenced companies in this review. Accordingly, for the final results, we continue to apply AFA as noted above.

Final Results Of Review

The weighted–average dumping margin for the POR is as follows:

Manufacturer/exporter	Margin (percent)
Raoping Yucun	113.84
PRC–Wide Entity[2]	198.63

[2] Which includes PHX, Gerber and Guangxi Yulin.

Cash Deposit Requirements

The following deposit requirements will be effective upon publication of the final results of this administrative review for all shipments of certain preserved mushrooms from the PRC entered, or withdrawn from warehouse, for consumption on or after the publication date of this notice, as provided for by section 751(a)(1) of the Act: (1) The cash deposit rates for the reviewed companies named above will be the rates for those firms established in the final results of this administrative review; (2) for any previously reviewed or investigated PRC or non–PRC exporter, not covered in this review, with a separate rate, the cash deposit rate will be the company–specific rate established in the most recent segment of those proceedings; (3) for all other PRC exporters, the cash deposit rates will be the PRC–wide rates established in the final results of this review; and (4) the cash deposit rate for any non–PRC exporter of subject merchandise from the PRC who does not have its own rate will be the rate applicable to the PRC exporter that supplied the non–PRC exporter. These deposit requirements, when imposed, shall remain in effect until publication of the final results of the next administrative review.

The PRC–Wide Cash Deposit Rates

The current PRC–wide cash deposit rate is 198.63 percent. This deposit requirement shall remain in effect until publication of the final results of the next administrative review.

Assessment Rates

The Department will issue appraisement instructions directly to U.S. Customs and Border Protection ("CBP") within 15 days of publication of the final results of this administrative review. In accordance with 19 CFR 351.212(b)(1), we have calculated importer–specific assessment rates for merchandise subject to this review. For Raoping Yucun, we divided the total dumping margins of its reviewed sales by the total entered value of its reviewed sales for each applicable importer to calculate *ad valorem*

assessment rates. We will direct CBP to assess the resulting assessment rates against the entered customs values for the subject merchandise on Raoping Yucun's entries under the relevant order during the POR.

To determine whether the duty assessment rates were *de minimis*, in accordance with the requirement set forth in 19 CFR 351.106(c)(2), we calculated importer–specific *ad valorem* rates. For Raoping Yucun, we aggregated the dumping margins calculated for all U.S. sales to each importer and divided this amount by the entered value of the sales to each importer. Where an importer–specific *ad valorem* rate is *de minimis*, we will order CBP to liquidate appropriate entries without regard to antidumping duties.

Lastly, for the respondents receiving dumping rates based upon AFA, the Department will instruct CBP to liquidate entries according to the AFA *ad valorem* rate. The Department will issue appraisement instructions directly to CBP upon the completion of the final results of this administrative review.

Reimbursement Of Duties

This notice also serves as a final reminder to importers of their responsibility under 19 CFR 351.402(f) to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this POR. Failure to comply with this requirement could result in the Secretary's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of doubled antidumping duties.

Administrative Protective Orders

This notice also serves as a reminder to parties subject to administrative protective orders ("APO") of their responsibility concerning the return or destruction of proprietary information disclosed under APO in accordance with 19 CFR 351.305, which continues to govern business proprietary information in this segment of the proceeding. 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 terms of an APO is a violation which is subject to sanction.

We are issuing and publishing these results and notice in accordance with sections 751(a) and 777(i) of the Act.

Dated: July 5, 2006.

David M. Spooner,

Assistant Secretary for Import Administration.

Appendix I – Decision Memorandum

I. General Comments:

Comment 1: Surrogate Value for Straw
Comment 2: Surrogate Value for Mushroom Spawn
Comment 3: Surrogate Value for Cow Manure

Comment 4: Surrogate Value for Tin Cans/Lids
Comment 5: Surrogate Value for Steam Coal
Comment 6: Surrogate Value for Calcium Carbonate
Comment 7: Calculation of Surrogate Financial Ratios

[FR Doc. E6–11276 Filed 7–14–06; 8:45 am]

BILLING CODE 3510–DS–S

DEPARTMENT OF COMMERCE

International Trade Administration

The President's Export Council: Meeting of the President's Export Council

AGENCY: International Trade Administration, Commerce.

ACTION: Notice of an open meeting.

SUMMARY: The President's Export Council (PEC) will hold a full Council meeting to discuss topics related to export expansion. The meeting will include discussion of trade priorities and initiatives, PEC subcommittee activity, and proposed letters of recommendation to the President. The PEC was established on December 20, 1973, and reconstituted May 4, 1979, to advise the President on matters relating to U.S. trade. It was most recently renewed by Executive Order 13316.

Date: July 19, 2006.

Time: 3:30 p.m. (EDT).

Location: U.S. Department of Commerce, Room 4832, 1401 Constitution Avenue, NW., Washington, DC 20230. Because of building security, all non-government attendees must pre-register. Please RSVP to the PEC Executive Secretariat no later than July 18, 2006, to J. Marc Chittum, President's Export Council, Room 4043, 1401 Constitution Avenue, NW., Washington, DC 20230, telephone (202) 482–1124, or e-mail *Marc.Chittum@mail.doc.gov*.

This program will be physically accessible to people with disabilities. Seating is limited and will be on a first come, first served basis. Requests for sign language interpretation, other auxiliary aids, or pre-registration, should be submitted no later than July 18, 2006, to J. Marc Chittum, President's Export Council, Room 4043, 1401 Constitution Avenue, NW., Washington, DC 20230, telephone (202) 482–1124, or e-mail *Marc.Chittum@mail.doc.gov*.

FOR FURTHER INFORMATION CONTACT: The President's Export Council Executive Secretariat, Room 4043, Washington, DC 20230 (Phone: 202–482–1124), or visit the PEC Web site, *http://www.trade.gov/pec*.

Dated: July 11, 2006.

J. Marc Chittum,

Staff Director and Executive Secretary, President's Export Council.

[FR Doc. 06–6252 Filed 7–12–06; 12:52 pm]

BILLING CODE 3510–DR–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 061406A]

Taking Marine Mammals Incidental to Specified Activities; Port Sutton Navigation Channel, Tampa Bay, FL

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

ACTION: Notice of a proposed modification to a proposed marine mammal incidental take authorization; request for comments.

SUMMARY: NMFS received a request from the U.S. Army Corps of Engineers-Jacksonville District (Corps) for an authorization to take marine mammals, by harassment, incidental to expanding and deepening the Port Sutton Navigation Channel in Tampa Harbor, FL (Port Sutton project). On August 18, 2005, NMFS published a **Federal Register** notice to solicit public comments for the Corps' proposed project and NMFS preliminary determination of issuing an incidental harassment authorization (IHA) to the Corps. Subsequently, the Corps submitted additional information to NMFS on charge weight of the explosives and calculations for impact zones from a similar port construction project that the Corps completed in Miami. Due to the similarity of the geophysical structure and rock substrate between the Port of Miami and Port Sutton, the Corps proposes to modify certain aspects of the proposed project in Port Sutton with the best available scientific information obtained from the Port of Miami project. NMFS is requesting comments on the proposed

modifications to the Port Sutton project and its IHA.

DATES: Comments and information must be received no later than August 1, 2006.

ADDRESSES: Comments on this proposed modification should be addressed to P. Michael Payne, Chief, Permits, Conservation and Education Division, Office of Protected Species, National Marine Fisheries Service, 1315 East-West Highway, Silver Spring, MD 20910. The mailbox address for providing e-mail comments on this action is *PR1.061406A@noaa.gov*. Comments sent via e-mail, including all attachments, must not exceed a 10–megabyte file size. NMFS requests that comments be limited to the proposed modifications only; comments already submitted during the original public comment will be addressed when NMFS makes a final determination whether an IHA will be issued. A copy of the original application, Environmental Assessment (EA), and documents submitted to support the modifications may be obtained by writing to the address provided or by telephoning the contact listed under the heading **FOR FURTHER INFORMATION CONTACT**. Publications referenced in this document are available for viewing, by appointment during regular business hours, at the address provided here during this comment period.

FOR FURTHER INFORMATION CONTACT: Shane Guan, NMFS, (301)713–2289, ext 137.

SUPPLEMENTARY INFORMATION:

Background

Sections 101(a)(5)(A) and (D) of the Marine Mammal Protection Act (MMPA) (16 U.S.C. 1361 *et seq.*) direct the Secretary of Commerce to allow, upon request, the incidental, but not intentional, taking of small numbers of marine mammals by U.S. citizens who engage in a specified activity (other than commercial fishing) within a specified geographical region if certain findings are made and either regulations are issued or, if the taking is limited to harassment, a notice of a proposed authorization is provided to the public for review.

An authorization shall be granted if NMFS finds that the taking will have a negligible impact on the species or stock(s), will not have an unmitigable adverse impact on the availability of the species or stock(s) for subsistence uses, and if the permissible methods of taking and requirements pertaining to the mitigation, monitoring and reporting of such takings are set forth. NMFS has defined "negligible impact" in 50 CFR 216.103 as "an impact resulting from the specified activity that cannot be reasonably expected to, and is not reasonably likely to, adversely affect the species or stock through effects on annual rates of recruitment or survival."

Subsection 101(a)(5)(D) of the MMPA established an expedited process by which citizens of the United States can apply for an authorization to incidentally take small numbers of marine mammals by harassment. Except with respect to certain activities not pertinent here, the MMPA now defines "harassment" as:

> any act of pursuit, torment, or annoyance which (i) has the potential to injure a marine mammal or marine mammal stock in the wild [Level A harassment]; or (ii) has the potential to disturb a marine mammal or marine mammal stock in the wild by causing disruption of behavioral patterns, including, but not limited to, migration, breathing, nursing, breeding, feeding, or sheltering [Level B harassment].

Subsection 101(a)(5)(D) establishes a 45–day time limit for NMFS review of an application followed by a 30–day public notice and comment period on any proposed authorizations for the incidental harassment of small numbers of marine mammals.

Summary of Request

On February 26, 2004, NMFS received a request from the Corps for an authorization to take, by harassment, bottlenose dolphins (*Tursiops truncatus*) incidental to using blasting during enlargement of the Port Sutton Navigation Channel, a part of the Tampa Harbor Federal Navigation Project, in the northern portion of Tampa Bay, Hillsborough County, Florida. The purpose of the project is to enlarge the navigation channel to accommodate larger vessels and incorporate an additional channel segment into the Federal channel. Detailed information of the project description, a summary of the marine mammal species in the proposed project area, and a description of potential effects on marine mammals are provided in a previous **Federal Register** notice (70 FR 48541, August 18, 2005) and are not repeated here.

Summary of Proposed Modification

Based on previous experience with harbor construction associated blasting in Puerto Rico in 1999 and Miami in 2005, the Corps has developed a set of standard specifications that would be used as general guidelines for the Port Sutton Project. These specifications would modify the existing proposed project plan (including mitigation) in the following ways:

(1) The Corps will not conduct any blasting activities between November 1 and March 31, when the likelihood of Florida manatee (*Trichechus manatus latirostris*) presence is high within the proposed project area.

(2) The Corps will provide the contractor's approved Blasting Plan to the NMFS, the U.S. Fish and Wildlife Service (USFWS), and the Florida Fish and Wildlife Conservation Commission (FWC) for review at least 30 days prior to the proposed date of the blast(s). The Blasting Plan shall include at least the following information:

(a) A list of the observers, their qualifications, and positions for the watch, and a map depicting the proposed locations for boats or land-based observers.

(b) The amount of explosive charge proposed, the explosive charge's equivalency in TNT, how it will be executed (depth of drilling, stemming, etc.), a drawing showing the placement of charges, size of the safety radius and how it will be marked, tide tables for the proposed blasting event(s), and estimates of times and days for blasting events.

(3) For each explosive charge placed, detonation will not occur if a marine mammal is known to be (or based on previous sightings, may be) within a circular area known as the safety zone. In the absence of acoustic measurements of the shock and pressure waves emanating from the detonations, the following equations were proposed in the Corps' original application and NMFS proposed IHA notice for blasting projects to determine zones of injury or mortality from an open water explosion. The equations, based on Young (1991), were:

Caution zone Radius (R) = 260 x (W)1/3

Safety zone Radius (R) = 520 x (W)1/3

with radius (R) = 260 times or 520 times the cube root of the weight (W) of the explosive charge where R = radius of the zone in ft and W = weight of the explosive charge in lbs/delay. The caution zone represents the radius in ft from the detonation beyond which mortality would not be expected from an open-water blast. The safety zone is the approximate distance in ft beyond which injury (Level A harassment) is unlikely from an open-water explosion. These zones were initially proposed to be used by the Corps for implementing mitigation measures to protect marine mammals.

Upon completion of the Port of Miami harbor construction project, the Corps calculated and analyzed field measurements of acoustic wave pressures during the Port of Miami Project. The results show that the acoustic wave pressures from the

detonation to a distance equal to the caution zone radius plus 300 ft (91 m) dropped down to the level of ambient noise.

Due to the similarity of the geophysical structure and rock substrate between Port of Miami and Port Sutton, the Corps believes the adoption of the Port of Miami pressure measurements to establish safety zones at Port Sutton provides a conservative level of protection for marine mammals. Therefore, the Corps proposes to modify the safety zone radius to the radius of the calculated caution zone plus 300 ft (91 m). This modification will reduce the area of safety zones and make marine mammal monitoring more effective.

(4) Marine mammal monitoring shall begin at least 1 hour prior to the scheduled start of blasting to identify the possible presence of manatees and dolphins. The monitoring shall continue until at least one half-hour after detonations are complete.

Marine mammal monitoring will consist of a minimum of six observers. Each observer will be equipped with a two-way radio that shall be dedicated exclusively to the watch. Extra radio should be available in case of failures. Observers will also be equipped with polarized sunglasses, binoculars, a red flag for backup visual communication, and a sighting log with a map to record marine mammal sightings.

In addition to monitoring from two small boats and from a draw barge, marine mammal monitoring will also include a continuous aerial survey to be conducted by aircraft, as approved by the Federal Aviation Administration.

(5) Detonation events will be halted if an animal is spotted within 300 ft (91 m) of the perimeter of the caution zone (i.e., the safety zone). The blasting event shall not take place until the animal moves out of the area under its own volition, or 30 minutes after the last sighting of the animal.

Endangered Species Act

The Corps is currently working with the USFWS on an ESA section 7 consultation regarding potential take of Florida manatees incidental to the proposed action. No ESA-listed species under NMFS jurisdiction will be affected.

Preliminary Conclusions

NMFS believes that the Corps' proposed modification to the proposed action would not increase the incidental take of marine mammals from its original proposal by number or severity. The newly available information that was used for the proposed modification would provide a better assessment on the potential impacts on marine mammals, and therefore provides more effective mitigation and monitoring measures. NMFS retains its preliminary determination made in its previous **Federal Register** notice (70 FR 48541, August 18, 2005) that the Corps' proposed action and subsequent modification, including mitigation measures to protect marine mammals, may result, at worst, in the temporary modification in behavior by small numbers of bottlenose dolphins, including temporarily vacating the Port Sutton Channel area to avoid the blasting activity and potential for minor visual and acoustic disturbance from dredging and detonations. This action is expected to have a negligible impact on the affected species or stock of marine mammals. In addition, no take by injury or death is anticipated, and harassment takes will be at the lowest level practicable due to incorporation of the mitigation measures described in this document and the August 18, 2005, **Federal Register** notice (70 FR 48541).

Proposed Authorization

NMFS proposes to issue an IHA to the Corps for the harassment of small numbers of bottlenose dolphins incidental to expanding and deepening the Port Sutton Channel in Tampa Harbor, FL, provided the mitigation, monitoring, and reporting requirements, along with the proposed modifications, are incorporated.

Information Solicited

NMFS requests interested persons to submit comments and information concerning this proposed modification to the proposed project and NMFS' preliminary determination of issuing an IHA (see **ADDRESSES**).

Dated: July 11, 2006.

James H. Lecky,

Director, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. E6–11268 Filed 7–14–06; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

Hydrographic Services Review Panel Meeting

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

ACTION: Notice of open meeting.

SUMMARY: The Hydrographic Services Review Panel (HSRP) was established by the Secretary of Commerce to advise the Under Secretary of Commerce for Oceans and Atmosphere on matters related to the responsibilities and authorities set forth in section 303 of the Hydrographic Services Improvement Act of 1998, its amendments, and such other appropriate matters that the Under Secretary refers to the Panel for review and advice.

Date and Time: The meeting will be held Monday, August 14, 2006, from 1 p.m. to 5:30 p.m., and Tuesday, August 15, 2006, from 8 a.m. to 4:30 p.m.

Location: The Hotel Captain Cook, 4th and K Streets, Anchorage, Alaska 99501; Telephone: 907–276–6000 or 800–843–1950. The times and agenda topics are subject to change. Refer to the HSRP Web site listed below for the most current meeting agenda.

FOR FURTHER INFORMATION CONTACT: Captain Steven Barnum, NOAA, Designated Federal Official (DFO), Office of Coast Survey, National Ocean Service (NOS), NOAA (N/CS), 1315 East West Highway, Silver Spring, Maryland 20910; Telephone: 301–713–2770, Fax: 301–713–4019; e-mail: *Hydroservices.panel@noaa.gov* or visit the NOAA HSRP Web site at *http://nauticalcharts.noaa.gov/ocs/hsrp/hsrp.htm*.

SUPPLEMENTARY INFORMATION: The meeting will be open to the public and public comment periods will be scheduled at various times throughout the meeting. These comment periods will be part of the final agenda that will be published before the meeting date on the HSRP Web site listed above. Each individual or group making a verbal presentation will be limited to a total time of five (5) minutes. Written comments (at least 30 copies) should be submitted to the DFO by August 4, 2006. Written comments received by the DFO after August 4, 2006, will be distributed to the HSRP, but may not be reviewed before the meeting date. Approximately 25 seats will be available for the public, on a first-come, first-served basis.

Matters to be Considered: (1) Deliberations on issues relevant to: (1) Alaska shipping, cruise industry, coastal resources management, ocean policy, and recreational boating; (2) geodesy and shoreline mapping; (3) navigational services program updates; (4) historical overview and status update on the reauthorization of the Hydrographic Services Improvement Act; (5) Panel deliberations on the "NOAA Hydrographic Survey Priorities;" and (6) public statements.

Dated: July 7, 2006.

Steven R. Barnum,

Director, Office of Coast Survey, National Ocean Service, National Oceanic and Atmospheric Administration.

[FR Doc. E6–11260 Filed 7–14–06; 8:45 am]

BILLING CODE 3510–JE–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 070306B]

Marine Fisheries Advisory Committee; Public Meetings

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

ACTION: Notice of open public meetings.

SUMMARY: Notice is hereby given of meetings of the Marine Fisheries Advisory Committee (MAFAC). This will be the second of two meetings held in fiscal year 2006 to review and advise NOAA on management policies for living marine resources. Agenda topics are provided under the **SUPPLEMENTARY INFORMATION** section of this notice. All full Committee sessions will be open to the public.

DATES: The meetings will be held July 25, 2006, from 8 a.m. to 5 p.m. and July 27, 2006, from 1 p.m. to 5 p.m.

ADDRESSES: The meetings will be held at the Courtyard Marriott Seattle Downtown/Lake Union, 925 Westlake Avenue North, Seattle, WA 98109, (206) 213–0100.

Requests for special accommodations may be directed to MAFAC, National Marine Fisheries Service, 1315 East-West Highway #9508, Silver Spring, MD 20910.

FOR FURTHER INFORMATION CONTACT: Laurel Bryant, MAFAC Executive Director; telephone: (301) 713–2379 x171.

SUPPLEMENTARY INFORMATION: As required by section 10(a)(2) of the Federal Advisory Committee Act, 5 U.S.C. App. 2, notice is hereby given of meetings of MAFAC. MAFAC was established by the Secretary of Commerce (Secretary) on February 17, 1971, to advise the Secretary on all living marine resource matters that are the responsibility of the Department of Commerce. This committee advises and reviews the adequacy of living marine resource policies and programs to meet the needs of commercial and recreational fisheries, and environmental, state, consumer, academic, tribal, governmental and other national interests.

Matters to be Considered

July 25, 2006

The meeting will begin with opening remarks and introductions from Dr. William T. Hogarth, Assistant Administrator for Fisheries and representatives of the Northwest Regional Office and Fisheries Science Center. The Committee will receive a review of the inaugural Sustainable Fisheries Leadership Awards held in June 2006, which the Committee helped to establish, and receive a presentation and request for input on a long term seafood information and outreach product the agency intends to launch on the internet within the next year. Next, the committee will receive an update on offshore aquaculture legislation, receive a presentation of aquaculture research occurring within the region, and discuss the overall direction and future of domestic and global aquaculture.

The afternoon will include discussing the scope, focus and strategy for producing a public document intended to outline the roadmap of issues to be addressed in fisheries in the next 20 years.

July 26, 2006

No full Committee meeting will take place. Subcommittees will meet 8 a.m. to 12 p.m. The full Committee will then visit a regional research facility in Manchester, WA.

July 27, 2006

The Subcommittees will meet from 8 a.m. to 12 p.m. The full committee will reconvene from 1 p.m. to 5 p.m. to receive, discuss, and take final actions and votes.

Special Accommodations

These meetings are physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Laurel Bryant, MAFAC Executive Director; telephone: (301) 713–2379 x171.

Dated: July 11, 2006.

William T. Hogarth,

Assistant Administrator for Fisheries, National Marine Fisheries Service.

[FR Doc. E6–11271 Filed 7–14–06; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 040704A]

Endangered Fish and Wildlife; National Environmental Policy Act; Right Whale Ship Strike Reduction Regulations; Public Hearings

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

ACTION: Notice of public hearings.

SUMMARY: NMFS will hold three public hearings in August 2006, to receive public comments on the North Atlantic right whale ship strike reduction strategy and draft environmental impact statement (DEIS) in Boston, MA; Baltimore, MD; and Jacksonville, FL.

DATES: See **SUPPLEMENTARY INFORMATION** under the heading ≥Hearing Dates, Times, and Locations≥ for the dates and locations of the public hearings.

FOR FURTHER INFORMATION CONTACT: Jessica Gribbon, Office of Protected Resources, NMFS, 1315 East-West Highway, Silver Spring, MD 20910; telephone: (301) 713–2322.

SUPPLEMENTARY INFORMATION: On July 7, 2006, the Environmental Protection Agency (EPA) published a Notice of Availability (NOA) in the **Federal Register** announcing the availability of the DEIS for implementation of the operational measures of the Right Whale Ship Strike Reduction Strategy for public comment and review. The public comment period on the DEIS is from July 7, 2006, to September 5, 2006. The public has the opportunity to submit comments on the document using following methods:

(1) E-mail: *ShipStrike.EIS@noaa.gov.*

(2) Mail: Chief, Marine Mammal and Sea Turtle Conservation Division, Attn: Right Whale Ship Strike Reduction Strategy DEIS, Office of Protected Resources, NMFS, 1315 East-West Highway, Silver Spring, MD 20910.

(3) Facsimile (fax) to: 301-427-2522, Attn: Right Whale Ship Strike Reduction StrategyDEIS.

(4) Public Hearings: Submit oral or written comments at public hearings for the DEIS.

NMFS has scheduled three public hearings on the DEIS. The purpose of these hearings is to provide an opportunity for the public to submit oral or written comments on the DEIS. The DEIS and information on these hearings can be found at ≤*http://www.nmfs.noaa.gov/pr/shipstrike/.*

Hearing Dates, Times, and Locations

The dates, times and locations of the hearings are as follows:

Tuesday, August 8, 2006 - Jacksonville, FL 1-4 p.m. – University of North Florida, University Center, Board of Trustees Room, 1200 Alumni Drive, Jacksonville, FL 32224.

Thursday, August 10, 2006 - Baltimore, MD 1-4 p.m. – Maryland Science Center, MSC Theater, 601 Light Street, Baltimore, MD 21230.

Monday, August 14, 2006 - Boston, MA 1-4 p.m. – Thomas (Tip) O'Neill, Federal Building, Auditorium, 10 Causeway Street, Boston, MA 02222.

Special Accommodations

These hearings are physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Jessica Gribbon, at (301) 713-2322, ext.153, at least 7 working days prior to the hearing date.

Dated: July 11, 2006.

Stewart Harris,

Acting Chief, Marine Mammal and Sea Turtle Conservation Division, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. E6–11272 Filed 7–14–06; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. EL06–52–002]

New York Power Authority v. Consolidated Edison Company; Notice of Filing

July 11, 2006.

Take notice that on July 6, 2006, Consolidated Edison Company filed a chart of tabulation of interest that it paid on the principal amount of refund that was erroneously not included in its refund report filed on June 20, 2006.

Any person desiring to intervene or to protest this filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. Such notices, motions, or protests must be filed on or before the comment date. Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant and all the parties in this proceeding.

The Commission encourages electronic submission of protests and interventions in lieu of paper using the "eFiling" link at *http://www.ferc.gov*. Persons unable to file electronically should submit an original and 14 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

This filing is accessible online at *http://www.ferc.gov*, using the "eLibrary" link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an "eSubscription" link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please e-mail *FERCOnlineSupport@ferc.gov*, or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Comment Date: 5 p.m. Eastern Time on July 27, 2006.

Magalie R. Salas,

Secretary.

[FR Doc. E6–11264 Filed 7–14–06; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. PR06–6–002]

Dow Pipeline Company; Notice of Compliance Filing

July 5, 2006.

Take notice that on May 10, 2006, Dow Pipeline Company filed a revised Statement of Operating Conditions in compliance with the Commission's letter order issued on April 26, 2006, in Docket Nos. PR06–6–000 and PR06–6–001.

Any person desiring to protest this filing must file in accordance with Rule 211 of the Commission's Rules of Practice and Procedure (18 CFR 385.211). Protests to this filing will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Such protests must be filed on or before the date as indicated below. Anyone filing a protest must serve a copy of that document on all the parties to the proceeding.

The Commission encourages electronic submission of protests in lieu of paper using the "eFiling" link at *http://www.ferc.gov*. Persons unable to file electronically should submit an original and 14 copies of the protest to the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

This filing is accessible online at *http://www.ferc.gov*, using the "eLibrary" link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an "eSubscription" link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please e-mail *FERCOnlineSupport@ferc.gov*, or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Comment Date: 5 p.m. Eastern Time on July 17, 2006.

Magalie R. Salas,

Secretary.

[FR Doc. E6–11239 Filed 7–14–06; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP05–672–003]

East Tennessee Natural Gas, LLC; Notice of Explanation of Terms

July 11, 2006.

Take notice that on May 15, 2006, East Tennessee Natural Gas, LLC (East Tennessee) filed an explanation in Docket No. RP05–672–003 to comply with a Commission order dated May 4, 2006 approving East Tennessee's *pro forma* tariff proposal to establish east-end pooling rights on its system (May 4 Order). (115 FERC ¶ 61,142 (2006)) East Tennessee had filed the east-end pooling proposal as required by Article IV of a Settlement approved by Commission order dated October 26, 2005. (113 FERC ¶ 61,099 (2005)) The May 4 Order noted that the proposal did not revise subsection 3.2 (Delivery Points) of Rate Schedule FT–GS (*Pro Forma* Sheet No. 123) to provide delivery point pooling rights. Therefore, the May 4 Order conditionally accepted East Tennessee's filing subject to East Tennessee either revising the *pro forma* tariff language by adding delivery point pooling rights to subsection 3.2 of Rate Schedule FT–GS, or explaining why the proposal fully complied with Article IV of the Settlement.

Any person desiring to protest this filing must file in accordance with Rule 211 of the Commission's Rules of

Practice and Procedure (18 CFR 385.211). Protests to this filing will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Such protests must be filed on or before the date as indicated below. Anyone filing a protest must serve a copy of that document on all the parties to the proceeding.

The Commission encourages electronic submission of protests in lieu of paper using the "eFiling" link at *http://www.ferc.gov*. Persons unable to file electronically should submit an original and 14 copies of the protest to the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

This filing is accessible online at *http://www.ferc.gov*, using the "eLibrary" link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an "eSubscription" link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please e-mail *FERCOnlineSupport@ferc.gov*, or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Comment Date: 5 p.m. Eastern Time on July 18, 2006.

Magalie R. Salas,

Secretary.

[FR Doc. E6–11261 Filed 7–14–06; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 2145]

Public Utility District No. 1 of Chelan County, WA; Notice of Authorization for Continued Project Operation

July 11, 2006.

On June 29, 2004, Public Utility District No. 1 of Chelan County, licensee for the Rocky Reach Hydroelectric Project, filed an application for a new or subsequent license pursuant to the Federal Power Act (FPA) and the Commission's regulations. The Rocky Reach Project is located on the Columbia River in the Town of Entiat, Chelan County, Washington.

The license for Project No. 2145 was issued for a period ending June 30, 2006. Section 15(a)(1) of the FPA, 16 U.S.C. 808(a)(1), requires the Commission, at the expiration of a license term, to issue from year-to-year an annual license to the then licensee under the terms and conditions of the prior license until a new license is issued, or the project is otherwise disposed of as provided in section 15 or any other applicable section of the FPA. If the project's prior license waived the applicability of section 15 of the FPA, then, based on section 9(b) of the Administrative Procedure Act, 5 U.S.C. 558(c), and as set forth at 18 CFR 16.21(a), if the licensee of such project has filed an application for a subsequent license, the licensee may continue to operate the project in accordance with the terms and conditions of the license after the minor or minor part license expires, until the Commission acts on its application. If the licensee of such a project has not filed an application for a subsequent license, then it may be required, pursuant to 18 CFR 16.21(b), to continue project operations until the Commission issues someone else a license for the project or otherwise orders disposition of the project.

If the project is subject to section 15 of the FPA, notice is hereby given that an annual license for Project No. 2145 is issued to Public Utility District No. 1 of Chelan County for a period effective July 1, 2006 through June 30, 2007, or until the issuance of a new license for the project or other disposition under the FPA, whichever comes first. If issuance of a new license (or other disposition) does not take place on or before June 30, 2007, notice is hereby given that, pursuant to 18 CFR 16.18(c), an annual license under section 15(a)(1) of the FPA is renewed automatically without further order or notice by the Commission, unless the Commission orders otherwise. If the project is not subject to section 15 of the FPA, notice is hereby given that Public Utility District No. 1 of Chelan County, is authorized to continue operation of the Rocky Reach Project until such time as the Commission acts on its application for a subsequent license.

Magalie R. Salas,

Secretary.

[FR Doc. E6–11262 Filed 7–14–06; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket Nos. CP06–412–000 and CP06–416–000]

Puget Sound Energy, Inc. and Northwest Pipeline Corporation; Notice of Application

July 10, 2006.

Take notice that on June 30, 2006, Puget Sound Energy, Inc. (Puget), 10885 NE. 4th Street, Bellevue, Washington 98009, filed an application in Docket No. CP06–412–000, pursuant to sections 7(c) and 7(b) of the Natural Gas Act (NGA) and part 157 of the Commission's regulations, for a certificate of public convenience and necessity and related abandonment authority for Puget, as operator of the Jackson Prairie Storage Project in Lewis County, Washington, to construct and operate new and upgraded facilities necessary to increase the Jackson Prairie maximum firm withdrawal deliverability from 850 MMcf/day to 1,150 MMcf/day on behalf of three owners of Jackson Prairie, Puget, Northwest Pipeline Corporation (Northwest), and Avista Corporation. Also on June 30, 2006, Northwest, 295 Chipeta Way, Salt Lake City, Utah 84158, filed a companion application under section 7(c) of the NGA and part 157 of the Commission's regulations, for a certificate of public convenience and necessity authorizing it to utilize a portion of the expanded withdrawal deliverability from the Jackson Prairie Storage Project for new firm storage services. Puget's project would consist of up to ten new injection/withdrawal wells with appurtenant gathering facilities, about 0.8 miles of 24-inch-diameter pipeline looping, and various upgrades at the Jackson Prairie Compressor station and Jackson Prairie Meter Station. The total cost of facilities is estimated to be $43.8 million, all as more fully set forth in the applications which are on file with the Commission and open to public inspection. The filings may also be viewed on the Web at *http://www.ferc.gov* using the "eLibrary" link. Enter the docket number excluding the last three digits in the docket number field to access the document. For assistance, please contact FERC Online Support at *FERCOnlineSupport@ferc.gov* or toll free at (866) 208–3676, or for TTY, contact (202) 502–8659.

Any questions regarding these applications may be directed to Garry Kotter, Manager, Certificates and Tariffs, at (801) 584–7117, Northwest Pipeline

Corporation, P.O. Box 58900, Salt Lake City Utah, 84158–900.

There are two ways to become involved in the Commission's review of this project. First, any person wishing to obtain legal status by becoming a party to the proceedings for this project should, on or before the comment date, file with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, a motion to intervene in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the NGA (18 CFR 157.10). A person obtaining party status will be placed on the service list maintained by the Secretary of the Commission and will receive copies of all documents filed by the applicant and by all other parties. Unless filing electronically, a party must submit 14 copies of filings made with the Commission and must mail a copy to the applicant and to every other party in the proceeding. Only parties to the proceeding can ask for court review of Commission orders in the proceeding.

However, a person does not have to intervene in order to have comments considered. The second way to participate is by filing with the Secretary of the Commission, as soon as possible, an original and two copies of comments in support of or in opposition to this project. The Commission will consider these comments in determining the appropriate action to be taken, but the filing of a comment alone will not serve to make the filer a party to the proceeding. The Commission's rules require that persons filing comments in opposition to the project provide copies of their protests only to the party or parties directly involved in the protest.

Persons who wish to comment only on the environmental review of this project should submit an original and two copies of their comments to the Secretary of the Commission. Environmental commentors will be placed on the Commission's environmental mailing list, will receive copies of the environmental documents, and will be notified of meetings associated with the Commission's environmental review process. Environmental commentors will not be required to serve copies of filed documents on all other parties. However, the non-party commentors will not receive copies of all documents filed by other parties or issued by the Commission (except for the mailing of environmental documents issued by the Commission) and will not have the right to seek court review of the Commission's final order.

The Commission strongly encourages electronic filings of comments, protests and interventions via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site (*http://www.ferc.gov*) under the "e-Filing" link.

Comment Date: 5 p.m. Eastern Time, July 31, 2006.

Magalie R. Salas,

Secretary.

[FR Doc. E6–11200 Filed 7–14–06; 8:45 am]

BILLING CODE 6717-01-P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings #1

July 7, 2006.

Take notice that the Commission received the following electric corporate filings:

Docket Numbers: EC06–136–000; ER05–1326–003.

Applicants: 330 Investment Management, LLC; 330 MM, LLC, and CornerStone Energy Partners, LLC.

Description: 330 Investment Management, LLC, *et al.* submits an application for authorization for disposition of Jurisdictional Facilities, request for confidential treatment, and request for acceptance of notice of no material change in status.

Filed Date: 6/30/2006.

Accession Number: 20060706–0044.

Comment Date: 5 p.m. Eastern Time on Friday, July 21, 2006.

Docket Numbers: EC06–137–000.

Applicants: Fortis Bank S.A./N.V.

Description: Cinergy Marketing & Trading, LP *et al.* submits an application for authorization for disposition of Jurisdictional Assets pursuant to Section 203 of the Federal Power Act.

Filed Date: 6/30/2006.

Accession Number: 20060706–0052.

Comment Date: 5 p.m. Eastern Time on Friday, July 21, 2006.

Take notice that the Commission received the following electric rate filings:

Docket Numbers: ER02–2119–003.

Applicants: Southern California Edison Company.

Description: Southern California Edison Co submits a revised Interconnection Facilities Agreement with Wildflower Energy LP, First Revised Service Agreement 10 under FERC Electric Tariff, Second Revised Volume 6.

Filed Date: 6/30/2006.

Accession Number: 20060705–0080.

Comment Date: 5 p.m. Eastern Time on Friday, July 21, 2006.

Docket Numbers: ER02–2458–009.

Applicants: Midwest Independent Transmission System Operator, Inc.; Michigan Electric Transmission Company, LLC; Wolverine Power Supply Cooperative, Inc.; Michigan Public Power Agency; Trans-Elect, Inc.

Description: Midwest Independent Transmission System Operator, Inc *et al.* submit a First Amendment to the Amended and Restated Settlement Agreement in compliance with Commission Order issued 9/30/05.

Filed Date: 6/30/2006.

Accession Number: 20060705–0076.

Comment Date: 5 p.m. Eastern Time on Friday, July 21, 2006.

Docket Numbers: ER03–100–003.

Applicants: Just Energy Texas LP.

Description: Just Energy Texas LP. submits a notice of non-material change in status in compliance with the reporting requirements adopted by FERC's Order 652.

Filed Date: 06/30/2006.

Accession Number: 20060705–0079.

Comment Date: 5 p.m. Eastern Time on Friday, July 21, 2006.

Docket Numbers: ER06–360–003; ER06–361–003; ER06–362–003; ER06–363–003; ER06–366–003; ER06–372–003; ER06–373–003.

Applicants: Midwest Independent Transmission System Operator, Inc.; Midwest ISO Transmission Owners.

Description: Midwest Independent Transmission System Operator Inc and Midwest ISO Transmission Owners submit proposed revisions to Schedule 23 of its OAT&EM.

Filed Date: 6/30/2006.

Accession Number: 20060705–0077.

Comment Date: 5 p.m. Eastern Time on Friday, July 21, 2006.

Docket Numbers: ER06–1113–001.

Applicants: Cinergy Marketing & Trading, LP.

Description: Cinergy Marketing & Trading, LP submits its First Revised Sheet 2 to FERC Electric Tariff, Original Volume 1.

Filed Date: 6/29/2006.

Accession Number: 20060703–0206.

Comment Date: 5 p.m. Eastern Time on Friday, July 14, 2006.

Docket Numbers: ER06–1153–001.

Applicants: Indiana Michigan Power Company.

Description: Indiana Michigan Power Co submits corrected Exhibits I and II to its Cost-Based Formula Rate Agreement for Full Requirements Electric Service with the Village of Paw Paw, MI.

Filed Date: 6/29/2006.

Accession Number: 20060705–0172.

Comment Date: 5 p.m. Eastern Time on Thursday, July 20, 2006.

Docket Numbers: ER06–1177–000.

Applicants: PJM Interconnection, L.L.C.

Description: PJM Interconnection, LLC submits revisions to Part IV of its OATT pursuant to Section 205 of the Federal Power Act.

Filed Date: 6/29/2006.

Accession Number: 20060703–0209.

Comment Date: 5 p.m. Eastern Time on Thursday, July 20, 2006.

Docket Numbers: ER06–1179–000.

Applicants: SEMASS Partnership.

Description: SEMASS Partnership submits a Supplement No. 3 to Supplement 1 of its FERC Rate Schedule No. 1, Power Sale Agreement with Commonwealth Electric Co.

Filed Date: 6/28/2006.

Accession Number: 20060703–0207.

Comment Date: 5 p.m. Eastern Time on Wednesday, July 19, 2006.

Docket Numbers: ER06–1180–000.

Applicants: ISO New England Inc.; Participating Transmission Owner Administrative Committee.

Description: ISO New England Inc & the Participating Transmission Owner Administrative Committee *et al.* submits a revised Transmission Operating Agreement that updates and clarifies the list of Transmission Facilities etc.

Filed Date: 6/28/2006.

Accession Number: 20060705–0171.

Comment Date: 5 p.m. Eastern Time on Wednesday, July 19, 2006.

Docket Numbers: ER06–1181–000.

Applicants: ISO New England Inc.; Participating Transmission Owner Administrative Committee.

Description: ISO New England Inc *et al*≤ submits a revised Transmission Operating Agreement and revised Rate Design and Funds Disbursement Agreement to accommodate a new PTO, Vermont Transco LLC.

Filed Date: 6/29/2006.

Accession Number: 20060705–0017.

Comment Date: 5 p.m. Eastern Time on Thursday, July 20, 2006.

Docket Numbers: ER06–1186–000.

Applicants: Portland General Electric Company.

Description: Portland General Electric Co submits revised tariff sheets, Third Revised Sheet No. 3, *et al.* to its OATT, Original Volume No. 8.

Filed Date: 6/30/2006.

Accession Number: 20060705–0064.

Comment Date: 5 p.m. Eastern Time on Friday, July 21, 2006.

Docket Numbers: ER06–1187–000.

Applicants: PJM Interconnection, LLC.

Description: PJM Interconnection, LLC submits amendments to its OATT in compliance with FERC's 4/25/06 Final Rule, Order 676.

Filed Date: 6/30/2006.

Accession Number: 20060705–0065.

Comment Date: 5 p.m. Eastern Time on Friday, July 21, 2006.

Docket Numbers: ER06–1188–000.

Applicants: Carolina Power & Light Company.

Description: Carolina Power & Light Co dba Progress Energy Carolina Inc submits its Standard Large Generator Interconnection Agreement with North Carolina Electric Membership Corp.

Filed Date: 6/30/2006.

Accession Number: 20060705–0078.

Comment Date: 5 p.m. Eastern Time on Friday, July 21, 2006.

Docket Numbers: ER06–1189–000.

Applicants: Southern California Edison Company.

Description: Southern California Edison Co submits revised Rate Sheets to the Interconnection Facilities Agreement with Wildflower Energy LP.

Filed Date: 6/30/2006.

Accession Number: 20060705–0067.

Comment Date: 5 p.m. Eastern Time on Friday, July 21, 2006.

Docket Numbers: ER06–1191–000.

Applicants: DeSoto County Generating Company, LLC.

Description: DeSoto County Generating Co LLC submits its application for Order Granting Revised Market-Based Rate Authority, Certain Waivers and Blanket Approvals, and Other Revisions to Market Rate Tariff.

Filed Date: 6/30/2006.

Accession Number: 20060705–0074.

Comment Date: 5 p.m. Eastern Time on Friday, July 21, 2006.

Docket Numbers: ER06–1192–000.

Applicants: New England Power Company.

Description: New England Power Co on behalf of Rhode Island *et al.* submits amendments to the REMVEC II Agreement, Rate Schedule No. 484.

Filed Date: 6/30/2006.

Accession Number: 20060705–0071.

Comment Date: 5 p.m. Eastern Time on Friday, July 21, 2006.

Docket Numbers: ER06–1193–000.

Applicants: California Independent System Operator Corporation.

Description: California Independent System Operator Corp submits an amendment to the Responsible Participating Transmission Owner Agreement with Pacific Gas and Electric Co.

Filed Date: 6/30/2006.

Accession Number: 20060705–0072.

Comment Date: 5 p.m. Eastern Time on Friday, July 21, 2006.

Docket Numbers: ER06–1194–000.

Applicants: PJM Interconnection, LLC; Commonwealth Edison Company.

Description: Commonwealth Edison Co et al. submit revisions to Attachment H–13 of its OATT, Network Integration Transmission Service for the ComEd Zone.

Filed Date: 6/30/2006.

Accession Number: 20060705–0073.

Comment Date: 5 p.m. Eastern Time on Friday, July 21, 2006.

Docket Numbers: ER06–1195–000.

Applicants: Southwest Power Pool, Inc.

Description: Southwest Power Pool, Inc submits an executed Service Agreement for Network Integration Transmission Service w/ Kansas Municipal Energy Agency and Kansas City Power and Light Co.

Filed Date: 6/30/2006.

Accession Number: 20060705–0068.

Comment Date: 5 p.m. Eastern Time on Friday, July 21, 2006.

Docket Numbers: ER06–1196–000.

Applicants: Rumford Power Associates, Limited Partnership.

Description: Rumford Power Associates Limited Partnership submits a Notice of Cancellation of its Rate Schedule FERC No 1.

Filed Date: 6/30/2006.

Accession Number: 20060705–0061.

Comment Date: 5 p.m. Eastern Time on Friday, July 21, 2006.

Docket Numbers: ER06–1197–000.

Applicants: Tiverton Power Association Limited Partnership.

Description: Tiverton Power Associates Limited Partnership submits a Notice of Cancellation of its Rates Schedule FERC No 1.

Filed Date: 6/30/2006.

Accession Number: 20060705–0062.

Comment Date: 5 p.m. Eastern Time on Friday, July 21, 2006.

Docket Numbers: ER06–1199–000.

Applicants: Southwest Power Pool, Inc.

Description: Southwest Power Pool, Inc submits a partially executed Service Agreement for Network Integration Transmission Service, Original Service Agreement No. 1268 with Kansas Power Pool etc,.

Filed Date: 6/30/2006.

Accession Number: 20060705–0069.

Comment Date: 5 p.m. Eastern Time on Friday, July 21, 2006.

Docket Numbers: ER06–1200–000.

Applicants: Western Systems Power Pool, Inc.

Description: Western Systems Power Pool, Inc submits a revised WSPP Agreement, effective 9/1/06.

Filed Date: 6/30/2006.

Accession Number: 20060705–0070.

Comment Date: 5 p.m. Eastern Time on Friday, July 21, 2006.

Docket Numbers: ER06–1201–000.
Applicants: E.ON U.S. Services, Inc.
Description: E.ON U.S. Services Inc submits an unexecuted Interconnection agreement on behalf of its affiliates, Louisville Gas and Electric Co et al.
Filed Date: 6/30/2006.
Accession Number: 20060705–0055.
Comment Date: 5 p.m. Eastern Time on Friday, July 21, 2006.

Docket Numbers: ER06–1202–000.
Applicants: MidAmerican Energy Company.
Description: MidAmerican Energy Co submits a Network Integration Transmission Service Agreement with the Municipal Electric of the City of Cedar Falls, Iowa.
Filed Date: 6/30/2006.
Accession Number: 20060705–0056.
Comment Date: 5 p.m. Eastern Time on Friday, July 21, 2006.

Docket Numbers: ER06–1203–000.
Applicants: Duke Energy Shared Services, Inc.
Description: Duke Energy Shared Services Inc on behalf of the Cincinnati Gas & Electric et al. submits an amendment to its Second Supplemental Agreement to its Facilities Agreement with Ohio Valley Electric Corp.
Filed Date: 6/30/2006.
Accession Number: 20060705–0066.
Comment Date: 5 p.m. Eastern Time on Friday, July 21, 2006.

Docket Numbers: ER06–1204–000.
Applicants: Southwest Power Pool, Inc.
Description: Southwest Power Pool, Inc submits a partially executed service agreement for Network Integration Transmission Service, Original Service Agreement No. 1267, with Kansas Power Pool et al. under ER06–1204.
Filed Date: 6/30/2006.
Accession Number: 20060705–0057.
Comment Date: 5 p.m. Eastern Time on Friday, July 21, 2006.

Docket Numbers: ER06–1205–000.
Applicants: 330 Fund I, L.P.
Description: 330 Fund I, LP submits its application for Market Based Rate Authority, Certain Waiver and Blanket Authorizations for its initial Rate Schedule No. 1.
Filed Date: 6/30/2006.
Accession Number: 20060705–0053.
Comment Date: 5 p.m. Eastern Time on Friday, July 21, 2006.

Docket Numbers: ER06–1206–000.
Applicants: 330 Investment Management, LLC.
Description: 330 Investment Management, LLC submits a Notice of Succession and its revised Rate Schedule No.1.
Filed Date: 6/30/2006.
Accession Number: 20060705–0054.
Comment Date: 5 p.m. Eastern Time on Friday, July 21, 2006.

Docket Numbers: ER06–1209–000.
Applicants: Upper Peninsula Power Company.
Description: Upper Peninsula Power Co submits an executed power purchase agreement with the City of Negaunee, MI.
Filed Date: 6/30/2006.
Accession Number: 20060706–0040.
Comment Date: 5 p.m. Eastern Time on Friday, July 21, 2006.

Docket Numbers: ER06–1210–000.
Applicants: Duke Power Company LLC.
Description: Duke Power Co, LLC dba Duke Energy Carolinas, LLC submits its Network Integration Transmission Service Agreement with the Public Works Department of the Town of Forest City, NC.
Filed Date: 6/30/2006.
Accession Number: 20060706–0037.
Comment Date: 5 p.m. Eastern Time on Friday, July 21, 2006.

Docket Numbers: ER06–1212–000.
Applicants: American Electric Power Service Corp.
Description: American Electric Power Service Corp on behalf of Kentucky Power Co submits a First Revised Interconnection and Local Delivery Service Agreement with the City of Olive Hill, KY.
Filed Date: 6/30/2006.
Accession Number: 20060706–0039.
Comment Date: 5 p.m. Eastern Time on Friday, July 21, 2006.

Take notice that the Commission received the following public utility holding company filings:

Docket Numbers: PH06–100–000.
Applicants: Empire District Electric Co.
Description: The Empire District Electric Company submits is petition for exemption of the Commission regulations, pursuant to Section 366.4(b)(2) and 366.4.
Filed Date: 6/29/2006.
Accession Number: 20060629–5051.
Comment Date: 5 p.m. Eastern Time on Thursday, July 20, 2006.

Any person desiring to intervene or to protest in any of the above proceedings must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214) on or before 5 p.m. Eastern time on the specified comment date. It is not necessary to separately intervene again in a subdocket related to a compliance filing if you have previously intervened in the same docket. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant. In reference to filings initiating a new proceeding, interventions or protests submitted on or before the comment deadline need not be served on persons other than the Applicant.

The Commission encourages electronic submission of protests and interventions in lieu of paper, using the FERC Online links at *http://www.ferc.gov.* To facilitate electronic service, persons with Internet access who will eFile a document and/or be listed as a contact for an intervenor must create and validate an eRegistration account using the eRegistration link. Select the eFiling link to log on and submit the intervention or protests.

Persons unable to file electronically should submit an original and 14 copies of the intervention or protest to the Federal Energy Regulatory Commission, 888 First St., NE., Washington, DC 20426.

The filings in the above proceedings are accessible in the Commission's eLibrary system by clicking on the appropriate link in the above list. They are also available for review in the Commission's Public Reference Room in Washington, DC.

There is an eSubscription link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed dockets(s). For assistance with any FERC Online service, please e-mail *FERCOnlineSupport@ferc.gov.* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Magalie R. Salas,
Secretary.
[FR Doc. E6–11242 Filed 7–14–06; 8:45 am]
BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings # 2

July 11, 2006.

Take notice that the Commission received the following electric corporate filings:

Docket Numbers: EC06–138–000.
Applicants: Broad River OL–1, LLC; Broad River OL–2, LLC; Broad River OL–3, LLC; Broad River OL–4, LLC.
Description: Broad River OL–1, LLC, et al., submits a joint application for approval under Section 203 of the

Federal Power Act and request for expedited action.

Filed Date: 7/7/2006.

Accession Number: 20060711–0014.

Comment Date: 5 p.m. Eastern Time on Friday, July 28, 2006.

Take notice that the Commission received the following electric rate filings:

Docket Numbers: ER03–534–002.

Applicants: Ingenco Wholesale Power, L.L.C.

Description: Ingenco Wholesale Power, LLLC amendment to triennial updated market power analysis filed April 27, 2006.

Filed Date: 7/7/2006.

Accession Number: 20060707–5013.

Comment Date: 5 p.m. Eastern Time on Friday, July 28, 2006.

Docket Numbers: ER06–200–006; ER03–951–009; ER03–416–010; ER04–94–006; ER03–296–009; ER05–534–007; ER05–365–007; ER01–3121–008; ER02–418–007; ER05–332–007; ER06–1–005; ER02–417–007; ER05–1146–007; ER05–481–007; ER03–1326–005; ER05–1262–004.

Applicants: Big Horn Wind Project LLC; PPM Energy, Inc; Moraine Wind LLC; Klondike Wind Power Partners, LLC; Mountain View Power Partners; Flying Cloud Power Partners, LLC; Eastern Desert Power LLC; Elk River Windfarm LLC; Klamath Energy LLC; Klamath Generation LLC; Klondike Wind Power II LLC; Leaning Juniper Wind Power LLC; Phoenix Wind Power LLC; Shiloh I Wind Project, LLC; Trimont Wind I LLC; Colorado Green Holdings LLC.

Description: PPM Energy, Inc et al. submits Notice of Change in Status, to advise FERC that PPM Energy has entered into a Scheduling and Asset Optimization Services Agreement with MMC Energy North America, LLC et al.

Filed Date: 7/7/2006.

Accession Number: 20060711–0102.

Comment Date: 5 p.m. Eastern Time on Friday, July 28, 2006.

Docket Numbers: ER06–666–001.

Applicants: Midwest Independent Transmission System Operator, Inc.

Description: Midwest Independent Transmission System Operator, Inc submits revisions to Section 39.3.4c.ii to their OAT&EM Tariff, FERC Electric Tariff, Third Revised Volume 1 pursuant to FERC's 4/20/06 Order.

Filed Date: 5/22/2006.

Accession Number: 20060530–0043.

Comment Date: 5 p.m. Eastern Time on Friday, July 21, 2006.

Docket Numbers: ER06–849–001.

Applicants: Midwest Independent Transmission System Operator, Inc.

Description: Midwest Independent Transmission System Operator Inc submits revisions to Attachment L of its OAT&EM Tariff, 3rd Rev Vol 1, pursuant to Commission's 6/6/06 Order and 7/7/06 submits a correction to this filing.

Filed Date: 7/6/2006 & 7/7/2006.

Accession Number: 20060711–0002.

Comment Date: 5 p.m. Eastern Time on Thursday, July 27, 2006.

Docket Numbers: ER06–1127–001; EL06–67–000.

Applicants: PJM Interconnection, LLC.

Description: PJM Interconnection, LLC submits its response to FERC's 6/22/06 letter order for additional explanation.

Filed Date: 7/10/2006.

Accession Number: 20060711–0010.

Comment Date: 5 p.m. Eastern Time on Monday, July 17, 2006.

Docket Numbers: ER06–1143–001.

Applicants: MATEP, LLC.

Description: MATEP, LLC submits an amendment to its 6/16/06 application for market-based rate authority and the market-based power sales tariff, FERC Electric Tariff, Original Volume 1.

Filed Date: 7/10/2006.

Accession Number: 20060711–0009.

Comment Date: 5 p.m. Eastern Time on Monday, July 31, 2006.

Docket Numbers: ER06–1234–000.

Applicants: Southern Company Services, Inc.; Southern Companies.

Description: Southern Company Services as agent for Alabama Power Co et al. submits an unexecuted interconnection agreement with Longleaf Energy Associates LLC.

Filed Date: 7/7/2006.

Accession Number: 20060711–0005.

Comment Date: 5 p.m. Eastern Time on Friday, July 28, 2006.

Docket Numbers: ER06–1235–000.

Applicants: Pacific Gas & Electric Company.

Description: Pacific Gas and Electric Co submits an Agreement to Implement the Scheduling Coordinator Transition with the City and County of San Francisco, CA.

Filed Date: 7/7/2006.

Accession Number: 20060711–0004.

Comment Date: 5 p.m. Eastern Time on Friday, July 28, 2006.

Docket Numbers: ER06–1236–000.

Applicants: CMP Androscoggin LLC.

Description: CMP Androscoggin LLC submits its application for authority to sell electric power and related services at market based rates and accept its Electric Tariff, Original Volume 1, effective 9/5/06.

Filed Date: 7/7/2006.

Accession Number: 20060711–0001.

Comment Date: 5 p.m. Eastern Time on Friday, July 28, 2006.

Docket Numbers: ER06–1237–000.

Applicants: Southern California Edison Company.

Description: Southern California Edison Co submits its First Revised Sheet 1 for the Interconnection Facilities Agreement w/the County Sanitation Districts of Los Angeles, Service Agreement 39.

Filed Date: 7/10/2006.

Accession Number: 20060711–0013.

Comment Date: 5 p.m. Eastern Time on Monday, July 31, 2006.

Docket Numbers: ER06–1238–000.

Applicants: San Joaquin Cogen L.L.C.

Description: San Joaquin Cogen, LLC on behalf of San Joaquin Cogen, Ltd submits a notice of cancellation of FERC Electric Tariff, Original Volume 1.

Filed Date: 7/10/2006.

Accession Number: 20060711–0011.

Comment Date: 5 p.m. Eastern Time on Monday, July 31, 2006.

Take notice that the Commission received the following electric securities filings:

Docket Numbers: ES06–54–000.

Applicants: Monongahela Power Company.

Description: Monongahela Power Co submits its application for authorization under Section 204(A) of the FPA to issue up to $300 Million in First Mortgage Bonds and enter into Interest Rate Hedges.

Filed Date: 7/7/2006.

Accession Number: 20060711–0003.

Comment Date: 5 p.m. Eastern Time on Friday, July 28, 2006.

Take notice that the Commission received the following foreign utility company status filings:

Docket Numbers: FC06–15–000.

Applicants: J-Power USA Investment Co., Ltd.

Description: J-Power USA Investment Co., Ltd submits its self-certification of Foreign Utility Company Status.

Filed Date: 7/10/2006.

Accession Number: 20060710–5032.

Comment Date: 5 p.m. Eastern Time on Monday, July 31, 2006.

Any person desiring to intervene or to protest in any of the above proceedings must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214) on or before 5 p.m. Eastern time on the specified comment date. It is not necessary to separately intervene again in a subdocket related to a compliance filing if you have previously intervened in the same docket. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding.

Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant. In reference to filings initiating a new proceeding, interventions or protests submitted on or before the comment deadline need not be served on persons other than the Applicant.

The Commission encourages electronic submission of protests and interventions in lieu of paper, using the FERC Online links at *http://www.ferc.gov*. To facilitate electronic service, persons with Internet access who will eFile a document and/or be listed as a contact for an intervenor must create and validate an eRegistration account using the eRegistration link. Select the eFiling link to log on and submit the intervention or protests.

Persons unable to file electronically should submit an original and 14 copies of the intervention or protest to the Federal Energy Regulatory Commission, 888 First St. NE., Washington, DC 20426.

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Magalie R. Salas,

Secretary.

[FR Doc. E6–11243 Filed 7–14–06; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings #1

July 11, 2006.

Take notice that the Commission received the following electric rate filings:

Docket Numbers: ER96–780–013; ER00–3240–005; ER01–1633–003; ER03–1383–004.

Applicants: DeSoto County Generating Company, LLC; Southern Company Services, Inc.; Oleander Power Project, L.P.; Southern Company—Florida LLC.

Description: Southern Company Services, Inc. submits a notice of non-material Change in Status regarding Southern Power Company acquisition of DeSoto County Generation Company's Desoto Facility located in the Progress Energy Florida Control Area.

Filed Date: 6/30/2006.

Accession Number: 20060630–5016.

Comment Date: 5 p.m. Eastern Time on Friday, July 21, 2006.

Docket Numbers: ER98–3760–013.

Applicants: California Independent System Operator Corporation.

Description: California Independent System Operator Corp. submits modifications to Section 7.2.2.2 of its Tariff in compliance to FERC's 6/7/06 Order.

Filed Date: 7/6/2006.

Accession Number: 20060710–0010.

Comment Date: 5 p.m. Eastern Time on Thursday, July 27, 2006.

Docket Numbers: ER03–345–007.

Applicants: New England Power Pool Participants Commission.

Description: ISO New England, Inc. submits its semi-annual status report on Load Response Programs pursuant to FERC's 2/25/03 Order.

Filed Date: 6/30/2006.

Accession Number: 20060710–0013.

Comment Date: 5 p.m. Eastern Time on Friday, July 21, 2006.

Docket Numbers: ER03–583–005.

Applicants: Entergy Services, Inc.

Description: Entergy Services, Inc on behalf of Entergy New Orleans, Inc. submits redetermined rates for years 2004, 2005 and 2006 for its life-of-the-unit Purchased Power Agreements with Entergy Gulf States, Inc and Entergy Louisiana, Inc.

Filed Date: 6/30/2006.

Accession Number: 20060707–0065.

Comment Date: 5 p.m. Eastern Time on Friday, July 21, 2006.

Docket Numbers: ER06–576–002.

Applicants: Southern Company Services, Inc.

Description: Southern Company Services, Inc. on behalf of the Southern Companies submits a compliance filing pursuant to the Commission's 6/1/06 Order.

Filed Date: 7/3/2006.

Accession Number: 20060706–0285.

Comment Date: 5 p.m. Eastern Time on Monday, July 24, 2006.

Docket Numbers: ER06–778–001.

Applicants: Dominion Nuclear Connecticut, Inc.

Description: Dominion Nuclear Marketing III, LLC submits its cancelled tariff sheet, Second Revised Sheet 1 of Original Volume No. 1, pursuant to FERC's 5/12/06 Order.

Filed Date: 7/6/2006.

Accession Number: 20060710–0008.

Comment Date: 5 p.m. Eastern Time on Thursday, July 27, 2006.

Docket Numbers: ER06–1124–001.

Applicants: Kentucky Utilities Company.

Description: Kentucky Utilities submits its notice of cancellation of the interconnection agreement with Eastern Kentucky Power Cooperative.

Filed Date: 6/27/2006.

Accession Number: 20060705–0058.

Comment Date: 5 p.m. Eastern Time on Tuesday, July 18, 2006.

Docket Numbers: ER06–1190–000.

Applicants: Southern California Edison Company.

Description: Southern California Edison submits a revised Mohave-El Dorado Communication Facilities Agreement with the Los Angeles Department of Water and Power et al.

Filed Date: 6/29/2006.

Accession Number: 20060705–0063.

Comment Date: 5 p.m. Eastern Time on Thursday, July 20, 2006.

Docket Numbers: ER06–1198–000.

Applicants: New England Power Pool Participants Committee.

Description: The New England Power Pool Participants Committee submits a counterpart signature page of the New England Power Pool Agreement, dated as of 9/1/97 as amended and executed by Vermont Transco LLC.

Filed Date: 6/30/2006.

Accession Number: 20060705–0075.

Comment Date: 5 p.m. Eastern Time on Friday, July 21, 2006.

Docket Numbers: ER06–1207–000.

Applicants: Central Maine Power Company.

Description: Central Maine Power Co submits its Annual Update to Formula Rates in Schedule 21–CMP of ISO–NE Transmission, Markets & Service Tariff, effective 6/1/06 et al.

Filed Date: 6/30/2006.

Accession Number: 20060705–0060.

Comment Date: 5 p.m. Eastern Time on Friday, July 21, 2006.

Docket Numbers: ER06–1208–000.

Applicants: Vermont TRANSCO LLC.

Description: Vermont Transco LLC submits a Notice of Succession which identifies the rate schedules to be transferred to VTransco, Vermont Electric Power Co., Rate Schedule 236 etc. under ER06–1208.

Filed Date: 6/30/2006.

Accession Number: 20060705–0059.

Comment Date: 5 p.m. Eastern Time on Friday, July 21, 2006.

Docket Numbers: ER06–1211–000.

Applicants: Public Service Company of New Mexico.

Description: Public Service Co. of New Mexico submits an executed Firm Point-

to-Point Transmission Service Agreement with Aragonne Wind, LLC.
Filed Date: 7/3/2006.
Accession Number: 20060706–0038.
Comment Date: 5 p.m. Eastern Time on Monday, July 24, 2006.

Docket Numbers: ER06–1213–000.
Applicants: Southern Company Services, Inc.
Description: Southern Company Services, Inc. on behalf of Alabama Power Co. et al. submits the Rollover Transmission Service Agreement for Long-Term Firm Point-to-Point Transmission Service.
Filed Date: 7/3/2006.
Accession Number: 20060706–0284.
Comment Date: 5 p.m. Eastern Time on Monday, July 24, 2006.

Docket Numbers: ER06–1214–000.
Applicants: Westar Energy, Inc.
Description: Westar Energy, Inc. submits its Sixth Revised Sheet 11 of Second Revised Rate Schedule 300, extending 31 days the Agreement with Missouri Joint Municipal Electric Utility Commission.
Filed Date: 7/3/2006.
Accession Number: 20060706–0283.
Comment Date: 5 p.m. Eastern Time on Monday, July 24, 2006.

Docket Numbers: ER06–1215–000.
Applicants: Westar Energy, Inc.
Description: Westar Energy, Inc. submits Fifth Revised Sheet 11 to Rate Schedule 303, extending 31 days the Agreement with Missouri Joint Municipal Electric Utility Commission.
Filed Date: 7/3/2006.
Accession Number: 20060706–0282.
Comment Date: 5 p.m. Eastern Time on Monday, July 24, 2006.

Docket Numbers: ER06–1216–000.
Applicants: Westar Energy, Inc.
Description: Westar Energy, Inc submits Fifth Revised Sheet 9 of Rate Schedule 302, extending 31 days the Agreement with Missouri Joint Municipal Electric Utility Commission.
Filed Date: 7/3/2006.
Accession Number: 20060706–0281.
Comment Date: 5 p.m. Eastern Time on Monday, July 24, 2006.

Docket Numbers: ER06–1217–000.
Applicants: Entergy Services, Inc.
Description: Entergy Services, Inc on behalf of Entergy Arkansas, Inc submits an executed Service Agreement providing for cost-based short-term power sales to North Arkansas Electric Cooperative, Inc.
Filed Date: 7/3/2006.
Accession Number: 20060706–0280.
Comment Date: 5 p.m. Eastern Time on Monday, July 24, 2006.

Docket Numbers: ER06–1218–000.
Applicants: PJM Interconnection, LLC.
Description: PJM Interconnection, LLC submits revisions to its Amended and Restated Operating Agreement and its OATT.
Filed Date: 7/3/2006.
Accession Number: 20060706–0279.
Comment Date: 5 p.m. Eastern Time on Monday, July 24, 2006.

Docket Numbers: ER06–1219–000.
Applicants: ISO New England Inc.
Description: ISO New England Inc. submits associated modifications to Schedule 16 of its Open Access Transmission Tariff.
Filed Date: 6/30/2006.
Accession Number: 20060706–0090.
Comment Date: 5 p.m. Eastern Time on Friday, July 21, 2006.

Docket Numbers: ER06–1220–000.
Applicants: USEG, LLP.
Description: USEG, LLP submits a petition for acceptance of initial rate schedule, waivers and blanket authorizations pursuant to Section 35.12 of the Regulations.
Filed Date: 7/5/2006.
Accession Number: 20060706–0278.
Comment Date: 5 p.m. Eastern Time on Wednesday, July 26, 2006.

Docket Numbers: ER06–1221–000.
Applicants: Parkview AMC Energy, LLC.
Description: Parkview AMC Energy, LLC submits its application for acceptance of initial market-based rate tariff, waivers and blanket authority.
Filed Date: 7/3/2006.
Accession Number: 20060706–0091.
Comment Date: 5 p.m. Eastern Time on Monday, July 24, 2006.

Docket Numbers: ER06–1222–000.
Applicants: PEAK Capital Management, LLC.
Description: PEAK Capital Management LLC submits a petition for acceptance of initial tariff, waivers and blanket authority.
Filed Date: 7/3/2006.
Accession Number: 20060710–0011.
Comment Date: 5 p.m. Eastern Time on Monday, July 24, 2006.

Docket Numbers: ER06–1223–000.
Applicants: Fairchild Energy, LLC.
Description: Fairchild Energy, LLC submits an application for order accepting initial market based rate Tariff No. 1 and granting certain waivers and blanket approvals.
Filed Date: 7/3/2006.
Accession Number: 20060710–0005.
Comment Date: 5 p.m. Eastern Time on Monday, July 24, 2006.

Docket Numbers: ER06–1224–000.
Applicants: American Electric Power Service Corporation.
Description: American Electric Power Service Corp. on behalf of Ohio Power Co et al. submit the Fifth Revised Interconnection and Local Service Agreement with Buckeye Power, Inc.
Filed Date: 6/30/2006.
Accession Number: 20060706–0041.
Comment Date: 5 p.m. Eastern Time on Friday, July 21, 2006.

Docket Numbers: ER06–1225–000.
Applicants: Indiana and Michigan Power Company.
Description: Indiana and Michigan Power Co submits its interconnection and local delivery service agreement with the Town of New Carlisle, Indiana designated as Service Agreement No. 1451.
Filed Date: 7/6/2006.
Accession Number: 20060710–0026.
Comment Date: 5 p.m. Eastern Time on Thursday, July 27, 2006.

Docket Numbers: ER06–1226–000.
Applicants: Valero Power Marketing LLC.
Description: Valero Power Marketing, LLC submits an application for market-based rate authorization and request for waivers and blanket authorizations.
Filed Date: 7/6/2006.
Accession Number: 20060710–0025.
Comment Date: 5 p.m. Eastern Time on Thursday, July 27, 2006.

Docket Numbers: ER06–1227–000.
Applicants: Southern California Edison Company.
Description: Southern California Edison submits changes to the facilities charges of Agreements with Southern California Water Co, Rate Schedule 466 et al.
Filed Date: 7/6/2006.
Accession Number: 20060710–0024.
Comment Date: 5 p.m. Eastern Time on Thursday, July 27, 2006.

Docket Numbers: ER06–1228–000.
Applicants: Phibro LLC.
Description: Phibro LLC submits a notice of succession that reflects the adoption of Phibro, Inc's First Revised Rate Schedule 1 pursuant to FERC's 3/29/04 letter order.
Filed Date: 7/6/2006.
Accession Number: 20060710–0002.
Comment Date: 5 p.m. Eastern Time on Thursday, July 27, 2006.

Docket Numbers: ER06–1229–000.
Applicants: San Joaquin Cogen, L.L.C.
Description: San Joaquin Cogen, L.L.C. submits revised sheets to its market-based rate tariff, Original Volume No. 1 to add a Code of Conduct etc.
Filed Date: 7/6/2006.
Accession Number: 20060710–0003.
Comment Date: 5 p.m. Eastern Time on Thursday, July 27, 2006.

Docket Numbers: ER06–1230–000; ER06–1231–000; ER06–1232–000; ER06–1233–000.

Applicants: EPIC Merchant Energy NE, L.P.; EPIC Merchant Energy NY, L.P.; EPIC NJ/PA, L.P.; EPIC Merchant Energy Midwest, L.P.

Description: EPIC Merchant Energy Ne, L.P. et al. submits its petition for acceptance of initial tariff, waivers and blanket authority and request acceptance of FERC Electric Tariff, Original Volume 1 under ER06–1230 *et al.*

Filed Date: 7/6/2006.

Accession Number: 20060710–0004.

Comment Date: 5 p.m. Eastern Time on Thursday, July 27, 2006.

Any person desiring to intervene or to protest in any of the above proceedings must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214) on or before 5 p.m. Eastern time on the specified comment date. It is not necessary to separately intervene again in a subdocket related to a compliance filing if you have previously intervened in the same docket. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant. In reference to filings initiating a new proceeding, interventions or protests submitted on or before the comment deadline need not be served on persons other than the Applicant.

The Commission encourages electronic submission of protests and interventions in lieu of paper, using the FERC Online links at *http://www.ferc.gov.* To facilitate electronic service, persons with Internet access who will eFile a document and/or be listed as a contact for an intervenor must create and validate an eRegistration account using the eRegistration link. Select the eFiling link to log on and submit the intervention or protests.

Persons unable to file electronically should submit an original and 14 copies of the intervention or protest to the Federal Energy Regulatory Commission, 888 First St. NE., Washington, DC 20426.

The filings in the above proceedings are accessible in the Commission's eLibrary system by clicking on the appropriate link in the above list. They are also available for review in the Commission's Public Reference Room in Washington, DC. There is an eSubscription link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed dockets(s). For assistance with any FERC Online service, please e-mail *FERCOnlineSupport@ferc.gov.* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Magalie R. Salas,

Secretary.

[FR Doc. E6–11244 Filed 7–14–06; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[P–12646–001]

City of Broken Bow; Notice of Application Tendered for Filing With the Commission, Soliciting Additional Study Requests, and Establishing Procedures for Relicensing and a Deadline for Submission of Final Amendments

July 7, 2006.

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection.

a. *Type of Application:* Original Major License.

b. *Project No.:* 12646–001.

c. *Date filed:* July 6, 2006.

d. *Applicant:* City of Broken Bow.

e. *Name of Project:* Pine Creek Lake Dam Hydropower Project.

f. *Location:* On the Little River in McCurtain County, Oklahoma. The project would be located at the United States Army Corps of Engineers' (Corps) Pine Creek Lake Dam and would occupy several acres of land administered by the Corps.

g. *Filed Pursuant to:* Federal Power Act 16 U.S.C. 791(a)–825(r).

h. *Applicant Contact:* Olen Hill, City Manager, City of Broken Bow, Oklahoma; 210 North Broadway; Broken Bow, Oklahoma 74728; (405) 584–2282.

i. *FERC Contact:* Carolyn Holsopple at (202) 502–6407, or *carolyn.holsopple@ferc.gov.*

j. *Cooperating Agencies:* We are asking Federal, state, local, and tribal agencies with jurisdiction and/or special expertise with respect to environmental issues to cooperate with us in the preparation of the environmental document. Agencies who would like to request cooperating status should follow the instructions for filing comments described in item (l) below.

k. Pursuant to section 4.32(b)(7) of 18 CFR of the Commission's regulations, if any resource agency, Indian Tribe, or person believes that an additional scientific study should be conducted in order to form an adequate factual basis for a complete analysis of the application on its merit, the resource agency, Indian Tribe, or person must file a request for a study with the Commission not later than 60 days from the date of filing of the application, and serve a copy of the request on the applicant.

l. *Deadline for Filing Additional Study Requests and Requests for Cooperating Agency Status:* 60 days from the filing date shown in paragraph (c), or September 4, 2006.

All documents (original and eight copies) should be filed with: Magalie R. Salas, Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

Additional study requests may be filed electronically via the Internet in lieu of paper. The Commission strongly encourages electronic filing. See 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site (*http://www.ferc.gov*) under the "e-Filing" link. After logging into the e-Filing system, select "Comment on Filing" from the Filing Type Selection screen and continue with the filing process."

m. *Status:* This application is not ready for environmental analysis at this time.

n. *Description of Project:* The proposed project, using the existing Pine Creek Dam and Reservoir, would consist of: (1) A diversion structure connecting to the existing outlet conduit; (2) a penstock connecting the diversion structure to the powerhouse; (3) a 112-foot-wide by 73-foot-long powerhouse containing two turbine-generator units, having a totaled installed capacity of 6.4 megawatts; (4) a tailrace returning flows to the Little River; (5) a one-mile-long, 14.4-kilovolt transmission line or a 6.5-mile-long, 13.8 kilovolt transmission line connecting to an existing distribution line; and (6) appurtenant facilities. The project would have an average annual generation of 16,200 megawatt-hours.

o. A copy of the application is available for review at the Commission in the Public Reference Room or may be viewed on the Commission's Web site at *http://www.ferc.gov* using the "eLibrary" link. Enter the docket number, excluding the last three digits in the docket number field (P–12646), to access the document. For assistance, contact FERC Online Support at *FERCOnlineSupport@ferc.gov*, or toll-free at 1–866–208–3676, or for TTY, (202) 502–8659. A copy is also available for inspection and reproduction at the address in item (h) above.

You may also register online at *http://www.ferc.gov/esubscribenow.htm*

to be notified via e-mail of new filings and issuances related to this or other pending projects. For assistance, contact FERC Online Support.

p. With this notice, we are initiating consultation with the *OKLAHOMA STATE HISTORIC PRESERVATION OFFICER* (SHPO), as required by section 106, National Historic Preservation Act, and the regulations of the Advisory Council on Historic Preservation, 36 CFR 800.4.

q. *Procedural schedule and final amendments:* The application will be processed according to the following Hydro Licensing Schedule. Revisions to the schedule will be made if the Commission determines it necessary to do so:

Action	Tentative date
Issue Deficiency Letter	September 2006.
Request Additional Information	November 2006.
Issue Acceptance letter	December 2006.
Issue Scoping Document 1 for comments	February 2007.
Request Additional Information (if necessary)	April 2007.
Issue Scoping Document 2	May 2007.
Notice that application is ready for environmental analysis	July 2007.
Notice of the availability of the draft EA	January 2008.
Notice of the availability of the final EA (if necessary)	April 2008.
Ready for Commission's decision on the application	April 2008.

Final amendments to the application must be filed with the Commission no later than 30 days from the issuance date of this notice.

Magalie R. Salas,

Secretary.

[FR Doc. E6–11180 Filed 7–14–06; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Application for Transfer of License, and Soliciting Comments, Motions To Intervene, and Protests

July 10, 2006.

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection:

a. *Application Type:* Transfer of License.

b. *Project No.:* 4684–059.

c. *Date filed:* June 8, 2006.

d. *Applicants:* Stillwater Hydro Partners LP (transferor). Boralex Stillwater LLC (transferee).

e. *Name and Location of Project:* The Stillwater Project is located on the Hudson River in Saratoga and Rensselaer Counties, New York.

f. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791a–825r.

g. *Applicant Contacts:* For the transferor: Charles A. Bouley, Stillwater Hydro Partners LP, 265 Genesse Street, Auburn, NY 13021. *For the transferee:* Sylvain Ard, Boralex Stillwater LLC, 770 Sherbrooke Quest, Montreal, Quebec, Canada H3A 1G1.

h. *FERC Contact:* Robert Bell at (202) 502–6062.

i. *Deadline for filing comments, protests, and motions to intervene:* August 11, 2006.

All documents (original and eight copies) should be filed with: Magalie R. Salas, Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426. Comments, protests, and interventions may be filed electronically via the Internet in lieu of paper. See 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the "e-Filing" link. The Commission strongly encourages electronic filings. Please include the Project Number on any comments or motions filed.

The Commission's Rules of Practice and Procedure require all interveners filing a document with the Commission to serve a copy of that document on each person on the official service list for the project. Further, if an intervenor files comments or documents with the Commission relating to the merits of an issue that may affect the responsibilities of a particular resource agency, they must also serve a copy of the documents on that resource agency.

j. *Description of Application:* The Applicants seek Commission approval to transfer the license for the Stillwater Project from Stillwater Hydro Partners LP to Boralex Stillwater LLC.

k. This filing is available for review at the Commission in the Public Reference Room or may be viewed on the Commission's Web site at *http://www.ferc.gov* using the "FERRIS" link. Enter the docket number (P–4684) in the docket number field to access the document. For assistance, call toll-free 1–866–208–3676 or e-mail *FERCOnlineSupport@ferc.gov*. For TTY, call (202) 502–8659. A copy is also available for inspection and reproduction at the addresses in item g above.

l. Individuals desiring to be included on the Commission's mailing list should so indicate by writing to the Secretary of the Commission.

m. *Comments, Protests, or Motions to Intervene*—Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210, .211, .214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

n. *Filing and Service of Responsive Documents*—Any filings must bear in all capital letters the title "COMMENTS", "PROTEST", or "MOTION TO INTERVENE", as applicable, and the Project Number of the particular application to which the filing refers. Any of the above-named documents must be filed by providing the original and eight copies to: The Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426. A copy of any motion to intervene must also be served upon each representative of the Applicants specified in the particular application.

o. *Agency Comments*—Federal, state, and local agencies are invited to file comments on the described application. A copy of the application may be obtained by agencies directly from the Applicants. If an agency does not file comments within the time specified for filing comments, it will be presumed to have no comments. One copy of an

agency's comments must also be sent to the Applicants' representatives.

Magalie R. Salas,

Secretary.

[FR Doc. E6–11190 Filed 7–14–06; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 12582–001]

Clover Creek Hydro, LLC; Notice of Surrender of Preliminary Permit

July 10, 2006.

Take notice that Clover Creek Hydro, LLC, permittee for the proposed Byram Hydroelectric Project, has requested that its preliminary permit be terminated. The permit was issued on December 29, 2005, and would have expired on November 30, 2008.[1] The project would have been located on the Clover Creek portion of the Main Canal of the North Side Canal Company and Little Wood River, near Gooding, in Gooding County, Idaho.

The permittee filed the request on June 26, 2006, and the preliminary permit for Project No. 12582 shall remain in effect through the thirtieth day after issuance of this notice unless that day is a Saturday, Sunday, part-day holiday that affects the Commission, or legal holiday as described in section 18 CFR 385.2007, in which case the effective date is the first business day following that day. New applications involving this project site, to the extent provided for under 18 CFR part 4, may be filed on the next business day.

Magalie R. Salas,

Secretary.

[FR Doc. E6–11191 Filed 7–14–06; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Application Accepted for Filing and Soliciting Motions To Intervene, Protests, and Comments

July 10, 2006.

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection:

a. *Type of Application:* Preliminary Permit.

b. *Project No.:* 12671–000.

c. *Date filed:* April 10, 2006.

d. *Applicant:* Greenmill Hydro, LLC.

e. *Name of Project:* Greenmill Project.

f. *Location:* The project would be located on a water supply pipeline taken from Whatcom Creek, in Whatcom County, Washington. The project would not occupy Federal or Tribal lands. No dam would be used for this project.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. *Applicant Contact:* Mr. Richard New, Greenmill Hydro, LLC, 5500 Blue Heron Lane, Deming, WA 98244, (360) 592–5552.

i. *FERC Contact:* Robert Bell, (202) 502–6062.

j. Deadline for filing comments, protests, and motions to intervene: 60 days from the issuance date of this notice.

The Commission's Rules of Practice and Procedure require all intervenors filing documents with the Commission to serve a copy of that document on each person in the official service list for the project. Further, if an intervenor files comments or documents with the Commission relating to the merits of an issue that may affect the responsibilities of a particular resource agency, they must also serve a copy of the document on that resource agency.

k. *Description of Project:* The proposed project would consist of: (1) A proposed powerhouse containing three new generating units having a total installed capacity of 1200-kilowatts, (2) a proposed 0.25-mile-long, 6.9-kilovolt transmission line, and (3) appurtenant facilities. The project would have an annual generation of 5 gigawatt hours that would be sold to a local utility.

l. *Locations of Applications:* A copy of the application is available for inspection and reproduction at the Commission in the Public Reference Room, located at 888 First Street NE., Room 2A, Washington DC 20426, or by calling (202) 502–8371. This filing may also be viewed on the Commission's Web site at *http://www.ferc.gov* using the "eLibrary" link. Enter the docket number excluding the last three digits in the docket number field to access the document. For assistance, call toll-free 1–866–208–3676 or e-mail *FERCOnlineSupport@ferc.gov*. For TTY, call (202) 502–8659. A copy is also available for inspection and reproduction at the address in item h above.

m. Individuals desiring to be included on the Commission's mailing list should so indicate by writing to the Secretary of the Commission.

n. Competing Preliminary Permit—Anyone desiring to file a competing application for preliminary permit for a proposed project must submit the competing application itself, or a notice of intent to file such an application, to the Commission on or before the specified comment date for the particular application (see 18 CFR 4.36). Submission of a timely notice of intent allows an interested person to file the competing preliminary permit application no later than 30 days after the specified comment date for the particular application. A competing preliminary permit application must conform with 18 CFR 4.30(b) and 4.36.

o. Competing Development Application—Any qualified development applicant desiring to file a competing development application must submit to the Commission, on or before a specified comment date for the particular application, either a competing development application or a notice of intent to file such an application. Submission of a timely notice of intent to file a development application allows an interested person to file the competing application no later than 120 days after the specified comment date for the particular application. A competing license application must conform with 18 CFR 4.30(b) and 4.36.

p. Notice of Intent—A notice of intent must specify the exact name, business address, and telephone number of the prospective applicant, and must include an unequivocal statement of intent to submit, if such an application may be filed, either a preliminary permit application or a development application (specify which type of application). A notice of intent must be served on the applicant(s) named in this public notice.

q. Proposed Scope of Studies under Permit—A preliminary permit, if issued, does not authorize construction. The term of the proposed preliminary permit would be 36 months. The work proposed under the preliminary permit would include economic analysis, preparation of preliminary engineering plans, and a study of environmental impacts. Based on the results of these studies, the Applicant would decide whether to proceed with the preparation of a development application to construct and operate the project.

r. Comments, Protests, or Motions to Intervene—Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210, .211, .214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to

[1] 113 FERC ¶ 62,257.

intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. See 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under "e-filing" link. The Commission strongly encourages electronic filing.

s. Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title "COMMENTS", "COMPETING APPLICATION", "RECOMMENDATIONS FOR TERMS AND CONDITIONS", "PROTEST", OR "MOTION TO INTERVENE", as applicable, and the Project Number of the particular application to which the filing refers. Any of the above-named documents must be filed by providing the original and the number of copies provided by the Commission's regulations to: The Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426. A copy of any motion to intervene must also be served upon each representative of the Applicant specified in the particular application.

t. Agency Comments—Federal, state, and local agencies are invited to file comments on the described application. A copy of the application may be obtained by agencies directly from the Applicant. If an agency does not file comments within the time specified for filing comments, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

Magalie R. Salas,

Secretary.

[FR Doc. E6–11192 Filed 7–14–06; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Application Accepted for Filing and Soliciting Motions To Intervene, Protests, and Comments

July 10, 2006.

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection:

a. *Type of Application:* Preliminary Permit.

b. *Project No.:* 12672–000.

c. *Date filed:* April 28, 2006.

d. *Applicant:* Oregon Tidal Energy Company.

e. *Name of Project:* Columbia Tidal Energy Project.

f. *Location:* The project would be located in mouth of the Columbia River in Clatsop County, Oregon and Wahkiakum and Pacific Counties, Washington.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. *Applicant Contacts:* Joseph A. Cannon, Pillsbury Winthrop Shaw Pittman LLP, 2300 N Street, NW., Washington, DC 20037, phone: (202) 663–8000, and Charles B. Cooper, TRC Environmental, Boott Mills South, 116 John St., Lowell, MA 01852, phone: (978) 656–3567.

i. *FERC Contact:* Robert Bell, (202) 502–6062.

j. *Deadline for filing comments, protests, and motions to intervene:* 60 days from the issuance date of this notice.

The Commission's Rules of Practice and Procedure require all intervenors filing documents with the Commission to serve a copy of that document on each person in the official service list for the project. Further, if an intervenor files comments or documents with the Commission relating to the merits of an issue that may affect the responsibilities of a particular resource agency, they must also serve a copy of the document on that resource agency.

k. *Description of Project:* The proposed project would consist of: (1) 50 to 150 Tidal In Stream Energy Conversion (TISEC) devices consisting of rotating propeller blades, (2) integrated generators with a capacity of 0.5 to 2.0 MW each, (3) anchoring systems, (4) mooring lines, (5) interconnection transmission lines, and (6) appurtenant facilities. The project is estimated to have an annual generation of 8.76 gigawatt-hours per-unit per-year, which would be sold to a local utility.

l. *Locations of Applications:* A copy of the application is available for inspection and reproduction at the Commission in the Public Reference Room, located at 888 First Street, NE., Room 2A, Washington, DC 20426, or by calling (202) 502–8371. This filing may also be viewed on the Commission's Web site at *http://www.ferc.gov* using the "eLibrary" link. Enter the docket number excluding the last three digits in the docket number field to access the document. For assistance, call toll-free 1–866–208–3676 or e-mail *FERCOnlineSupport@ferc.gov*. For TTY, call (202) 502–8659. A copy is also available for inspection and reproduction at the address in item h above.

m. Individuals desiring to be included on the Commission's mailing list should so indicate by writing to the Secretary of the Commission.

n. Competing Preliminary Permit—Anyone desiring to file a competing application for preliminary permit for a proposed project must submit the competing application itself, or a notice of intent to file such an application, to the Commission on or before the specified comment date for the particular application (see 18 CFR 4.36). Submission of a timely notice of intent allows an interested person to file the competing preliminary permit application no later than 30 days after the specified comment date for the particular application. A competing preliminary permit application must conform with 18 CFR 4.30(b) and 4.36.

o. Competing Development Application—Any qualified development applicant desiring to file a competing development application must submit to the Commission, on or before a specified comment date for the particular application, either a competing development application or a notice of intent to file such an application. Submission of a timely notice of intent to file a development application allows an interested person to file the competing application no later than 120 days after the specified comment date for the particular application. A competing license application must conform with 18 CFR 4.30(b) and 4.36.

p. Notice of Intent—A notice of intent must specify the exact name, business address, and telephone number of the prospective applicant, and must include an unequivocal statement of intent to submit, if such an application may be filed, either a preliminary permit application or a development application (specify which type of application). A notice of intent must be served on the applicant(s) named in this public notice.

q. Proposed Scope of Studies under Permit—A preliminary permit, if issued, does not authorize construction. The term of the proposed preliminary permit would be 36 months. The work proposed under the preliminary permit would include economic analysis, preparation of preliminary engineering plans, and a study of environmental impacts. Based on the results of these studies, the Applicant would decide whether to proceed with the preparation of a development application to construct and operate the project.

r. Comments, Protests, or Motions to Intervene—Anyone may submit

comments, a protest, or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210, .211, .214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

Comments, protests and interventions may be filed electronically via the Internet in lieu of paper; See 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site under "e-filing" link. The Commission strongly encourages electronic filing.

s. Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title "COMMENTS", "RECOMMENDATIONS FOR TERMS AND CONDITIONS", "PROTEST", "COMPETING APPLICATION" OR "MOTION TO INTERVENE", as applicable, and the Project Number of the particular application to which the filing refers. Any of the above-named documents must be filed by providing the original and the number of copies provided by the Commission's regulations to: The Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426. A copy of any motion to intervene must also be served upon each representative of the Applicant specified in the particular application.

t. Agency Comments—Federal, State, and local agencies are invited to file comments on the described application. A copy of the application may be obtained by agencies directly from the Applicant. If an agency does not file comments within the time specified for filing comments, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

Magalie R. Salas,

Secretary.

[FR Doc. E6–11193 Filed 7–14–06; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Application Accepted for Filing and Soliciting Motions To Intervene, Protests, and Comments

July 10, 2006.

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection:

a. *Type of Application:* Preliminary Permit.

b. *Project No.:* 12682–000.

c. *Date filed:* June 2, 2006.

d. *Applicant:* Greybull Valley Irrigation District.

e. *Name of Project:* Greybull Valley Dam Project.

f. *Location:* On Roach Gulch, in Park County, Wyoming, utilizing the Greybull Valley Dam owned by the applicant. Part of the project is located on lands administered by the U.S. Bureau of Land Management.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. *Applicant Contact:* William Schlenker, Greybull Valley Irrigation District, 989 Highway 20 West, P.O. Box 44, Emblem, WY 82422, (307) 762–3555.

i. *FERC Contact:* Robert Bell, (202) 502–6062.

j. *Deadline for filing comments, protests, and motions to intervene:* 60 days from the issuance date of this notice.

All documents (original and eight copies) should be filed with: Magalie R. Salas, Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426. Comments, protests, and interventions may be filed electronically via the Internet in lieu of paper; see 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the "e-Filing" link. The Commission strongly encourages electronic filings. Please include the project number (P–12682–000) on any comments or motions filed.

The Commission's Rules of Practice and Procedure require all intervenors filing documents with the Commission to serve a copy of that document on each person in the official service list for the project. Further, if an intervenor files comments or documents with the Commission relating to the merits of an issue that may affect the responsibilities of a particular resource agency, they must also serve a copy of the document on that resource agency.

k. *Description of Project:* The proposed project would consist of: (1) An existing 1,320-foot-long, 150 foot-high zoned earthen dam, (2) a reservoir having a surface area of 900 acres and storage capacity of 33,169 acre-feet and normal water surface elevation of 4,953 feet msl, (3) a proposed intake structure, (4) a proposed powerhouse containing two generating units having a total installed capacity of 5 MW, (5) a proposed 3-mile-long 15, kV transmission line, and (6) appurtenant facilities.

Applicant estimates that the average annual generation would be 10 GWh and would be sold to a local utility.

l. This filing is available for review at the Commission in the Public Reference Room or may be viewed on the Commission's Web site at *http://www.ferc.gov* using the "eLibrary" link. Enter the docket number excluding the last three digits in the docket number field to access the document. For assistance, call toll-free 1–866–208–3676 or e-mail *FERCONLINESUPPORT@FERC.GOV*. For TTY, call (202) 502–8659. A copy is also available for inspection and reproduction at the address in item h above.

m. *Competing Preliminary Permit*—Anyone desiring to file a competing application for preliminary permit for a proposed project must submit the competing application itself, or a notice of intent to file such an application, to the Commission on or before the specified comment date for the particular application (see 18 CFR 4.36). Submission of a timely notice of intent allows an interested person to file the competing preliminary permit application no later than 30 days after the specified comment date for the particular application. A competing preliminary permit application must conform with 18 CFR 4.30(b) and 4.36.

n. *Competing Development Application*—Any qualified development applicant desiring to file a competing development application must submit to the Commission, on or before a specified comment date for the particular application, either a competing development application or a notice of intent to file such an application. Submission of a timely notice of intent to file a development application allows an interested person to file the competing application no later than 120 days after the specified comment date for the particular application. A competing license application must conform with 18 CFR 4.30(b) and 4.36.

o. *Notice of Intent*—A notice of intent must specify the exact name, business address, and telephone number of the prospective applicant, and must include

an unequivocal statement of intent to submit, if such an application may be filed, either a preliminary permit application or a development application (specify which type of application). A notice of intent must be served on the applicant(s) named in this public notice.

p. *Proposed Scope of Studies Under Permit*—A preliminary permit, if issued, does not authorize construction. The term of the proposed preliminary permit would be 36 months. The work proposed under the preliminary permit would include economic analysis, preparation of preliminary engineering plans, and a study of environmental impacts. Based on the results of these studies, the Applicant would decide whether to proceed with the preparation of a development application to construct and operate the project.

q. *Comments, Protests, or Motions to Intervene*—Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210, .211, .214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

r. *Filing and Service of Responsive Documents*—Any filings must bear in all capital letters the title "COMMENTS", "NOTICE OF INTENT TO FILE COMPETING APPLICATION", "COMPETING APPLICATION", "PROTEST", and "MOTION TO INTERVENE", as applicable, and the Project Number of the particular application to which the filing refers. Any of the above-named documents must be filed by providing the original and the number of copies provided by the Commission's regulations to: The Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426. An additional copy must be sent to Director, Division of Hydropower Administration and Compliance, Federal Energy Regulatory Commission, at the above-mentioned address. A copy of any notice of intent, competing application or motion to intervene must also be served upon each representative of the Applicant specified in the particular application.

s. *Agency Comments*—Federal, state, and local agencies are invited to file comments on the described application. A copy of the application may be obtained by agencies directly from the Applicant. If an agency does not file comments within the time specified for filing comments, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

Magalie R. Salas,

Secretary.

[FR Doc. E6–11194 Filed 7–14–06; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Application Accepted for Filing and Soliciting Motions To Intervene, Protests, and Comments

July 10, 2006.

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection:

a. *Type of Application:* Preliminary Permit.

b. *Project No.:* 12694–000.

c. *Date filed:* June 19, 2006.

d. *Applicant:* Alaska Tidal Energy Company.

e. *Name of Project:* Kachemak Bay Tidal Energy Project.

f. *Location:* The project would be located on the Kachemak Bay in the southern part of Cook Inlet in Kenai Peninsula, Alaska.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. *Applicant Contacts:* Joseph A. Cannon, Pillsbury Winthrop Shaw Pittman LLP, 2300 N Street, NW., Washington, DC 20037, phone: (202) 663–8000, and Charles B. Cooper, TRC Environmental, Boott Mills South, 116 John St., Lowell, MA 01852, phone: (978) 656–3567.

i. *FERC Contact:* Robert Bell, (202) 502–6062.

j. *Deadline for filing comments, protests, and motions to intervene:* 60 days from the issuance date of this notice.

The Commission's Rules of Practice and Procedure require all intervenors filing documents with the Commission to serve a copy of that document on each person in the official service list for the project. Further, if an intervenor files comments or documents with the Commission relating to the merits of an issue that may affect the responsibilities of a particular resource agency, they must also serve a copy of the document on that resource agency.

k. *Description of Project:* The proposed project would consist of: (1) 50 to 200 Tidal In Stream Energy Conversion (TISEC) devices consisting of rotating propeller blades, (2) integrated generators with a capacity of 0.5 to 2.0 MW each, (3) anchoring systems, (4) mooring lines, (5) interconnection transmission lines, and (6) appurtenant facilities. The project is estimated to have an annual generation of 8.76 gigawatt-hours per-unit per-year, which would be sold to a local utility.

l. *Locations of Applications:* A copy of the application is available for inspection and reproduction at the Commission in the Public Reference Room, located at 888 First Street NE., Room 2A, Washington DC 20426, or by calling (202) 502–8371. This filing may also be viewed on the Commission's Web site at *http://www.ferc.gov* using the "eLibrary" link. Enter the docket number excluding the last three digits in the docket number field to access the document. For assistance, call toll-free 1–866–208–3676 or e-mail *FERCOnlineSupport@ferc.gov*. For TTY, call (202) 502–8659. A copy is also available for inspection and reproduction at the address in item h above.

m. Individuals desiring to be included on the Commission's mailing list should so indicate by writing to the Secretary of the Commission.

n. *Competing Preliminary Permit*—Anyone desiring to file a competing application for preliminary permit for a proposed project must submit the competing application itself, or a notice of intent to file such an application, to the Commission on or before the specified comment date for the particular application (see 18 CFR 4.36). Submission of a timely notice of intent allows an interested person to file the competing preliminary permit application no later than 30 days after the specified comment date for the particular application. A competing preliminary permit application must conform with 18 CFR 4.30(b) and 4.36.

o. *Competing Development Application*—Any qualified development applicant desiring to file a competing development application must submit to the Commission, on or before a specified comment date for the particular application, either a competing development application or a notice of intent to file such an application. Submission of a timely notice of intent to file a development application allows an interested person to file the competing application no later than 120 days after the specified comment date for the particular application. A competing license application must conform with 18 CFR 4.30(b) and 4.36.

p. *Notice of Intent*—A notice of intent must specify the exact name, business address, and telephone number of the prospective applicant, and must include an unequivocal statement of intent to submit, if such an application may be filed, either a preliminary permit application or a development application (specify which type of application). A notice of intent must be served on the applicant(s) named in this public notice.

q. *Proposed Scope of Studies under Permit*—A preliminary permit, if issued, does not authorize construction. The term of the proposed preliminary permit would be 36 months. The work proposed under the preliminary permit would include economic analysis, preparation of preliminary engineering plans, and a study of environmental impacts. Based on the results of these studies, the Applicant would decide whether to proceed with the preparation of a development application to construct and operate the project.

r. *Comments, Protests, or Motions to Intervene*—Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210, .211, .214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

Comments, protests and interventions may be filed electronically via the Internet in lieu of paper; See 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site under "e-filing" link. The Commission strongly encourages electronic filing.

s. *Filing and Service of Responsive Documents*—Any filings must bear in all capital letters the title "COMMENTS", "RECOMMENDATIONS FOR TERMS AND CONDITIONS", "PROTEST", "COMPETING APPLICATION" OR "MOTION TO INTERVENE", as applicable, and the Project Number of the particular application to which the filing refers. Any of the above-named documents must be filed by providing the original and the number of copies provided by the Commission's regulations to: The Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426. A copy of any motion to intervene must also be served upon each representative of the Applicant specified in the particular application.

t. *Agency Comments*—Federal, state, and local agencies are invited to file comments on the described application. A copy of the application may be obtained by agencies directly from the Applicant. If an agency does not file comments within the time specified for filing comments, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

Magalie R. Salas,

Secretary.

[FR Doc. E6–11195 Filed 7–14–06; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Application Accepted for Filing and Soliciting Motions To Intervene, Protests, and Comments

July 10, 2006.

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection:

a. *Type of Application:* Preliminary Permit.

b. *Project No.:* 12695–000.

c. *Date filed:* June 19, 2006.

d. *Applicant:* Alaska Tidal Energy Company.

e. *Name of Project:* Icy Passage Tidal Energy Project.

f. *Location:* The project would be located on the Icy Passage and Icy Strait in Skagway-Hoonah-Angoon, Alaska.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. *Applicant Contacts:* Joseph A. Cannon, Pillsbury Winthrop Shaw Pittman LLP, 2300 N Street, NW., Washington, DC 20037, phone: (202) 663–8000, and Charles B. Cooper, TRC Environmental, Boott Mills South, 116 John St., Lowell, MA 01852, phone: (978) 656–3567.

i. *FERC Contact:* Robert Bell, (202) 502–6062.

j. *Deadline for filing comments, protests, and motions to intervene:* 60 days from the issuance date of this notice.

The Commission's Rules of Practice and Procedure require all intervenors filing documents with the Commission to serve a copy of that document on each person in the official service list for the project. Further, if an intervenor files comments or documents with the Commission relating to the merits of an issue that may affect the responsibilities of a particular resource agency, they must also serve a copy of the document on that resource agency.

k. *Description of Project:* The proposed project would consist of: (1) 25 to 50 Tidal In Stream Energy Conversion (TISEC) devices consisting of rotating propeller blades, (2) integrated generators with a capacity of 0.5 to 2.0 MW each, (3) anchoring systems, (4) mooring lines, (5) interconnection transmission lines, and (6) appurtenant facilities. The project is estimated to have an annual generation of 8.76 gigawatt-hours per-unit per-year, which would be sold to a local utility.

l. *Locations of Applications:* A copy of the application is available for inspection and reproduction at the Commission in the Public Reference Room, located at 888 First Street, NE., Room 2A, Washington, DC 20426, or by calling (202) 502–8371. This filing may also be viewed on the Commission's Web site at *http://www.ferc.gov* using the "eLibrary" link. Enter the docket number excluding the last three digits in the docket number field to access the document. For assistance, call toll-free 1–866–208–3676 or e-mail *FERCOnlineSupport@ferc.gov*. For TTY, call (202) 502–8659. A copy is also available for inspection and reproduction at the address in item h above.

m. Individuals desiring to be included on the Commission's mailing list should so indicate by writing to the Secretary of the Commission.

n. *Competing Preliminary Permit*—Anyone desiring to file a competing application for preliminary permit for a proposed project must submit the competing application itself, or a notice of intent to file such an application, to the Commission on or before the specified comment date for the particular application (see 18 CFR 4.36). Submission of a timely notice of intent allows an interested person to file the competing preliminary permit application no later than 30 days after the specified comment date for the particular application. A competing preliminary permit application must conform with 18 CFR 4.30(b) and 4.36.

o. *Competing Development Application*—Any qualified development applicant desiring to file a competing development application must submit to the Commission, on or before a specified comment date for the particular application, either a competing development application or a notice of intent to file such an application. Submission of a timely notice of intent to file a development application allows an interested person to file the competing application no

later than 120 days after the specified comment date for the particular application. A competing license application must conform with 18 CFR 4.30(b) and 4.36.

p. *Notice of Intent*—A notice of intent must specify the exact name, business address, and telephone number of the prospective applicant, and must include an unequivocal statement of intent to submit, if such an application may be filed, either a preliminary permit application or a development application (specify which type of application). A notice of intent must be served on the applicant(s) named in this public notice.

q. *Proposed Scope of Studies Under Permit*—A preliminary permit, if issued, does not authorize construction. The term of the proposed preliminary permit would be 36 months. The work proposed under the preliminary permit would include economic analysis, preparation of preliminary engineering plans, and a study of environmental impacts. Based on the results of these studies, the Applicant would decide whether to proceed with the preparation of a development application to construct and operate the project.

r. *Comments, Protests, or Motions to Intervene*—Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210, .211, .214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

Comments, protests and interventions may be filed electronically via the Internet in lieu of paper; See 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under "e-filing" link. The Commission strongly encourages electronic filing.

s. *Filing and Service of Responsive Documents*—Any filings must bear in all capital letters the title "COMMENTS", "RECOMMENDATIONS FOR TERMS AND CONDITIONS", "PROTEST", "COMPETING APPLICATION" or "MOTION TO INTERVENE", as applicable, and the Project Number of the particular application to which the filing refers. Any of the above-named documents must be filed by providing the original and the number of copies provided by the Commission's regulations to: The Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426. A copy of any motion to intervene must also be served upon each representative of the Applicant specified in the particular application.

t. *Agency Comments*—Federal, state, and local agencies are invited to file comments on the described application. A copy of the application may be obtained by agencies directly from the Applicant. If an agency does not file comments within the time specified for filing comments, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

Magalie R. Salas,

Secretary.

[FR Doc. E6–11196 Filed 7–14–06; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Application Accepted for Filing and Soliciting Motions To Intervene, Protests, and Comments

July 10, 2006.

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection:

a. *Type of Application:* Preliminary Permit.

b. *Project No.:* 12696–000.

c. *Date filed:* June 19, 2006.

d. *Applicant:* Alaska Tidal Energy Company.

e. *Name of Project:* Gastineau Channel Tidal Energy Project.

f. *Location:* The project would be located on the Gastineau Channel in Juneau, Alaska.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. *Applicant Contacts:* Joseph A. Cannon, Pillsbury Winthrop Shaw Pittman LLP, 2300 N Street, NW., Washington, DC 20037, phone: (202) 663–8000, and Charles B. Cooper, TRC Environmental, Boott Mills South, 116 John St., Lowell, MA 01852, phone: (978) 656–3567.

i. *FERC Contact:* Robert Bell, (202) 502–6062.

j. *Deadline for filing comments, protests, and motions to intervene:* 60 days from the issuance date of this notice.

The Commission's Rules of Practice and Procedure require all intervenors filing documents with the Commission to serve a copy of that document on each person in the official service list for the project. Further, if an intervenor files comments or documents with the Commission relating to the merits of an issue that may affect the responsibilities of a particular resource agency, they must also serve a copy of the document on that resource agency.

k. *Description of Project:* The proposed project would consist of: (1) 50 to 200 Tidal In Stream Energy Conversion (TISEC) devices consisting of rotating propeller blades, (2) integrated generators with a capacity of 0.5 to 2.0 MW each, (3) anchoring systems, (4) mooring lines, (5) interconnection transmission lines, and (6) appurtenant facilities. The project is estimated to have an annual generation of 8.76 gigawatt-hours per-unit per-year, which would be sold to a local utility.

l. *Locations of Applications:* A copy of the application is available for inspection and reproduction at the Commission in the Public Reference Room, located at 888 First Street, NE., Room 2A, Washington, DC 20426, or by calling (202) 502–8371. This filing may also be viewed on the Commission's Web site at *http://www.ferc.gov* using the "eLibrary" link. Enter the docket number excluding the last three digits in the docket number field to access the document. For assistance, call toll-free 1–866–208–3676 or e-mail *FERCOnlineSupport@ferc.gov*. For TTY, call (202) 502–8659. A copy is also available for inspection and reproduction at the address in item h above.

m. Individuals desiring to be included on the Commission's mailing list should so indicate by writing to the Secretary of the Commission.

n. *Competing Preliminary Permit:* Anyone desiring to file a competing application for preliminary permit for a proposed project must submit the competing application itself, or a notice of intent to file such an application, to the Commission on or before the specified comment date for the particular application (see 18 CFR 4.36). Submission of a timely notice of intent allows an interested person to file the competing preliminary permit application no later than 30 days after the specified comment date for the particular application. A competing preliminary permit application must conform with 18 CFR 4.30(b) and 4.36.

o. *Competing Development Application:* Any qualified development applicant desiring to file a competing development application must submit to the Commission, on or before a specified comment date for the particular application, either a competing development application or a

notice of intent to file such an application. Submission of a timely notice of intent to file a development application allows an interested person to file the competing application no later than 120 days after the specified comment date for the particular application. A competing license application must conform with 18 CFR 4.30(b) and 4.36.

p. *Notice of Intent:* A notice of intent must specify the exact name, business address, and telephone number of the prospective applicant, and must include an unequivocal statement of intent to submit, if such an application may be filed, either a preliminary permit application or a development application (specify which type of application). A notice of intent must be served on the applicant(s) named in this public notice.

q. *Proposed Scope of Studies under Permit:* A preliminary permit, if issued, does not authorize construction. The term of the proposed preliminary permit would be 36 months. The work proposed under the preliminary permit would include economic analysis, preparation of preliminary engineering plans, and a study of environmental impacts. Based on the results of these studies, the Applicant would decide whether to proceed with the preparation of a development application to construct and operate the project.

r. *Comments, Protests, or Motions to Intervene:* Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210, .211, .214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

Comments, protests and interventions may be filed electronically via the Internet in lieu of paper; See 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under "e-filing" link. The Commission strongly encourages electronic filing.

s. *Filing and Service of Responsive Documents:* Any filings must bear in all capital letters the title "COMMENTS", "RECOMMENDATIONS FOR TERMS AND CONDITIONS", "PROTEST", "COMPETING APPLICATION" OR "MOTION TO INTERVENE", as applicable, and the Project Number of the particular application to which the filing refers. Any of the above-named documents must be filed by providing the original and the number of copies provided by the Commission's regulations to: The Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426. A copy of any motion to intervene must also be served upon each representative of the Applicant specified in the particular application.

t. *Agency Comments:* Federal, State, and local agencies are invited to file comments on the described application. A copy of the application may be obtained by agencies directly from the Applicant. If an agency does not file comments within the time specified for filing comments, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

Magalie R. Salas,

Secretary.

[FR Doc. E6–11197 Filed 7–14–06; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Application Accepted for Filing and Soliciting Motions To Intervene, Protests, and Comments

July 10, 2006.

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection:

a. *Type of Application:* Preliminary Permit.

b. *Project No.:* 12697–000.

c. *Date filed:* June 19, 2006.

d. *Applicant:* Alaska Tidal Energy Company.

e. *Name of Project:* Wrangell Narrows Tidal Energy Project.

f. *Location:* The project would be located on the Wrangell Narrows in Wrangell-Petersburg, Alaska.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. *Applicant Contacts:* Joseph A. Cannon, Pillsbury Winthrop Shaw Pittman LLP, 2300 N Street, NW., Washington, DC 20037, phone: (202) 663–8000, and Charles B. Cooper, TRC Environmental, Boott Mills South, 116 John St., Lowell, MA 01852, phone: (978) 656–3567.

i. *FERC Contact:* Robert Bell, (202) 502–6062.

j. *Deadline for filing comments, protests, and motions to intervene:* 60 days from the issuance date of this notice.

The Commission's Rules of Practice and Procedure require all intervenors filing documents with the Commission to serve a copy of that document on each person in the official service list for the project. Further, if an intervenor files comments or documents with the Commission relating to the merits of an issue that may affect the responsibilities of a particular resource agency, they must also serve a copy of the document on that resource agency.

k. *Description of Project:* The proposed project would consist of: (1) 25 to 50 Tidal In Stream Energy Conversion (TISEC) devices consisting of rotating propeller blades, (2) integrated generators with a capacity of 0.5 to 2.0 MW each, (3) anchoring systems, (4) mooring lines, (5) interconnection transmission lines, and (6) appurtenant facilities. The project is estimated to have an annual generation of 8.76 gigawatt-hours per-unit per-year, which would be sold to a local utility.

l. *Locations of Applications:* A copy of the application is available for inspection and reproduction at the Commission in the Public Reference Room, located at 888 First Street, NE., Room 2A, Washington, DC 20426, or by calling (202) 502–8371. This filing may also be viewed on the Commission's Web site at *http://www.ferc.gov* using the "eLibrary" link. Enter the docket number excluding the last three digits in the docket number field to access the document. For assistance, call toll-free 1–866–208–3676 or e-mail *FERCOnlineSupport@ferc.gov*. For TTY, call (202) 502–8659. A copy is also available for inspection and reproduction at the address in item h above.

m. Individuals desiring to be included on the Commission's mailing list should so indicate by writing to the Secretary of the Commission.

n. Competing Preliminary Permit—Anyone desiring to file a competing application for preliminary permit for a proposed project must submit the competing application itself, or a notice of intent to file such an application, to the Commission on or before the specified comment date for the particular application (see 18 CFR 4.36). Submission of a timely notice of intent allows an interested person to file the competing preliminary permit application no later than 30 days after the specified comment date for the particular application. A competing preliminary permit application must conform with 18 CFR 4.30(b) and 4.36.

o. Competing Development Application—Any qualified development applicant desiring to file a competing development application

must submit to the Commission, on or before a specified comment date for the particular application, either a competing development application or a notice of intent to file such an application. Submission of a timely notice of intent to file a development application allows an interested person to file the competing application no later than 120 days after the specified comment date for the particular application. A competing license application must conform with 18 CFR 4.30(b) and 4.36.

p. Notice of Intent—A notice of intent must specify the exact name, business address, and telephone number of the prospective applicant, and must include an unequivocal statement of intent to submit, if such an application may be filed, either a preliminary permit application or a development application (specify which type of application). A notice of intent must be served on the applicant(s) named in this public notice.

q. Proposed Scope of Studies under Permit—A preliminary permit, if issued, does not authorize construction. The term of the proposed preliminary permit would be 36 months. The work proposed under the preliminary permit would include economic analysis, preparation of preliminary engineering plans, and a study of environmental impacts. Based on the results of these studies, the Applicant would decide whether to proceed with the preparation of a development application to construct and operate the project.

r. Comments, Protests, or Motions to Intervene—Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210, .211, .214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

Comments, protests and interventions may be filed electronically via the Internet in lieu of paper; See 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under "e-filing" link. The Commission strongly encourages electronic filing.

s. Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title "COMMENTS", "RECOMMENDATIONS FOR TERMS AND CONDITIONS", "PROTEST", "COMPETING APPLICATION" OR "MOTION TO INTERVENE", as applicable, and the Project Number of the particular application to which the filing refers. Any of the above-named documents must be filed by providing the original and the number of copies provided by the Commission's regulations to: The Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426. A copy of any motion to intervene must also be served upon each representative of the Applicant specified in the particular application.

t. Agency Comments—Federal, State, and local agencies are invited to file comments on the described application. A copy of the application may be obtained by agencies directly from the Applicant. If an agency does not file comments within the time specified for filing comments, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

Magalie R. Salas,

Secretary.

[FR Doc. E6–11198 Filed 7–14–06; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Application Accepted for Filing and Soliciting Motions To Intervene, Protests, and Comments

July 10, 2006.

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection:

a. *Type of Application:* Preliminary Permit.

b. *Project No.:* 12705–000.

c. *Date filed:* June 28, 2006.

d. *Applicant:* Alaska Tidal Energy Company.

e. *Name of Project:* Central Cook Inlet Tidal Energy Project.

f. *Location:* The project would be located on the central part of Cook Inlet in Kenai Peninsula, Alaska.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. *Applicant Contacts:* Joseph A. Cannon, Pillsbury Winthrop Shaw Pittman LLP, 2300 N Street, NW., Washington, DC 20037, phone: (202) 663–8000, and Charles B. Cooper, TRC Environmental, Boott Mills South, 116 John St., Lowell, MA 01852, phone: (978) 656–3567.

i. *FERC Contact:* Robert Bell, (202) 502–6062.

j. *Deadline for filing comments, protests, and motions to intervene:* 60 days from the issuance date of this notice.

The Commission's Rules of Practice and Procedure require all intervenors filing documents with the Commission to serve a copy of that document on each person in the official service list for the project. Further, if an intervenor files comments or documents with the Commission relating to the merits of an issue that may affect the responsibilities of a particular resource agency, they must also serve a copy of the document on that resource agency.

k. *Description of Project:* The proposed project would consist of: (1) 50 to 500 Tidal In Stream Energy Conversion (TISEC) devices consisting of rotating propeller blades, (2) integrated generators with a capacity of 0.5 to 2.0 MW each, (3) anchoring systems, (4) mooring lines, (5) interconnection transmission lines, and (6) appurtenant facilities. The project is estimated to have an annual generation of 8.76 gigawatt-hours per-unit per-year, which would be sold to a local utility.

l. *Locations of Applications:* A copy of the application is available for inspection and reproduction at the Commission in the Public Reference Room, located at 888 First Street, NE., Room 2A, Washington, DC 20426, or by calling (202) 502–8371. This filing may also be viewed on the Commission's Web site at *http://www.ferc.gov* using the "eLibrary" link. Enter the docket number excluding the last three digits in the docket number field to access the document. For assistance, call toll-free 1–866–208–3676 or e-mail *FERCOnlineSupport@ferc.gov*. For TTY, call (202) 502–8659. A copy is also available for inspection and reproduction at the address in item h above.

m. Individuals desiring to be included on the Commission's mailing list should so indicate by writing to the Secretary of the Commission.

n. Competing Preliminary Permit—Anyone desiring to file a competing application for preliminary permit for a proposed project must submit the competing application itself, or a notice of intent to file such an application, to the Commission on or before the specified comment date for the particular application (see 18 CFR 4.36). Submission of a timely notice of intent allows an interested person to file the competing preliminary permit application no later than 30 days after the specified comment date for the particular application. A competing

preliminary permit application must conform with 18 CFR 4.30(b) and 4.36.

o. Competing Development Application—Any qualified development applicant desiring to file a competing development application must submit to the Commission, on or before a specified comment date for the particular application, either a competing development application or a notice of intent to file such an application. Submission of a timely notice of intent to file a development application allows an interested person to file the competing application no later than 120 days after the specified comment date for the particular application. A competing license application must conform with 18 CFR 4.30(b) and 4.36.

p. Notice of Intent—A notice of intent must specify the exact name, business address, and telephone number of the prospective applicant, and must include an unequivocal statement of intent to submit, if such an application may be filed, either a preliminary permit application or a development application (specify which type of application). A notice of intent must be served on the applicant(s) named in this public notice.

q. Proposed Scope of Studies under Permit—A preliminary permit, if issued, does not authorize construction. The term of the proposed preliminary permit would be 36 months. The work proposed under the preliminary permit would include economic analysis, preparation of preliminary engineering plans, and a study of environmental impacts. Based on the results of these studies, the Applicant would decide whether to proceed with the preparation of a development application to construct and operate the project.

r. Comments, Protests, or Motions to Intervene—Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210, .211, .214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

Comments, protests and interventions may be filed electronically via the Internet in lieu of paper; See 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under "e-filing" link. The Commission strongly encourages electronic filing.

s. Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title "COMMENTS", "RECOMMENDATIONS FOR TERMS AND CONDITIONS", "PROTEST", "COMPETING APPLICATION" OR "MOTION TO INTERVENE", as applicable, and the Project Number of the particular application to which the filing refers. Any of the above-named documents must be filed by providing the original and the number of copies provided by the Commission's regulations to: The Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426. A copy of any motion to intervene must also be served upon each representative of the Applicant specified in the particular application.

t. Agency Comments—Federal, State, and local agencies are invited to file comments on the described application. A copy of the application may be obtained by agencies directly from the Applicant. If an agency does not file comments within the time specified for filing comments, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

Magalie R. Salas,

Secretary.

[FR Doc. E6–11199 Filed 7–14–06; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Application for Amendment of License and Soliciting Comments, Motions To Intervene, and Protests

July 5, 2006.

Take notice that the following application has been filed with the Commission and is available for public inspection:

a. *Application Type:* Non-Capacity Amendment of License.

b. *Project No.:* 2482–068.

c. *Date filed:* June 8, 2006.

d. *Applicant:* Erie Boulevard Hydropower, L.P.

e. *Name of Project:* Hudson River Hydroelectric Project.

f. *Location:* The project is located on the Hudson River, in Saratoga and Warren Counties, New York.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791a–825r.

h. *Applicant Contact:* Mr. Samuel Hirschey, P.E., Erie Boulevard Hydropower L.P., 225 Greenfield Parkway, Suite 201, Liverpool, New York 13088, (315) 413–2790.

i. *FERC Contact:* Any questions on this notice should be addressed to Mrs. Anumzziatta Purchiaroni at (202) 502–6191, or e-mail address: *anumzziatta.purchiaroni@ferc.gov*

j. *Deadline for filing comments and or motions:* August 7, 2006.

k. *Description of Request:* Erie Boulevard Hydropower, L.P. (Erie) filed an amendment application for its license. Erie is proposing to increase the authorized installed capacity at its Sherman Island Development as follows: (1) Replace Turbine Unit No. 4 runner in the existing powerhouse to increase turbine output to match the existing generator capacity at 7.2 MW; (2) install a new 9.5 MW Unit 1 at the empty No. 1 bay in the existing powerhouse; and (3) install a new 1.16 MW minimum flow unit No. 6 at the dam. With the proposed changes, the total installed capacity of the project would increase by 10.6 MW, or 14.5%, and the total hydraulic capacity would increase by 2,524 cfs, or 16.4%. In addition, Erie proposes to extend installation of 1-inch clear spaced trashracks over the intakes to the existing units within the existing powerhouse.

l. *Locations of the Application:* A copy of the application is available for inspection and reproduction at the Commission's Public Reference Room, located at 888 First Street, NE., Room 2A, Washington, DC 20426, or by calling (202) 502–8371. Information about this filing may also be viewed on the Commission's Web site at *http://www.ferc.gov* using the "eLibrary" link. Enter the docket number excluding the last three digits in the docket number field to access the document. You may also register online at *http://www.ferc.gov/docs-filing/esubscription.asp* to be notified via e-mail of new filings and issuances related to this or other pending projects. For assistance, call 1–866–208–3676 or e-mail *FERCOnlineSupport@ferc.gov*, for TTY, call (202) 502–8659. A copy is also available for inspection and reproduction at the address in item (h) above.

m. Individuals desiring to be included on the Commission's mailing list should so indicate by writing to the Secretary of the Commission.

n. *Comments, Protests, or Motions to Intervene*—Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210, .211, .214. In determining the appropriate action to

take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

o. *Filing and Service of Responsive Documents*—Any filings must bear in all capital letters the title "COMMENTS", "RECOMMENDATIONS FOR TERMS AND CONDITIONS", "PROTEST", or "MOTION TO INTERVENE", as applicable, and the Project Number of the particular application to which the filing refers. All documents (original and eight copies) should be filed with: Magalie R. Salas, Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington DC 20426. A copy of any motion to intervene must also be served upon each representative of the Applicant specified in the particular application.

p. *Agency Comments*—Federal, state, and local agencies are invited to file comments on the described application. A copy of the application may be obtained by agencies directly from the Applicant. If an agency does not file comments within the time specified for filing comments, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

q. Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site at *http://www.ferc.gov* under the "e-Filing" link.

Magalie R. Salas,

Secretary.

[FR Doc. E6–11240 Filed 7–14–06; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 946–007]

Hyrum City; Notice of Scoping Meetings and Site Visit and Soliciting Scoping Comments

July 11, 2006.

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection.

a. *Type of Application:* A Subsequent License. (Minor Project).

b. *Project No.:* 946–007.

c. *Date filed:* April 28, 2006.

d. *Applicant:* Hyrum City.

e. *Name of Project:* Hyrum City Hydroelectric Project.

f. *Location:* On the Blacksmith Fork River in Hyrum City, Cache County, Utah. The project affects about 17.03 acres of federal lands within the Wasatch Cache National Forest.

g. *Filed Pursuant to:* Federal Power Act 16 U.S.C. 791(a)–825(r).

h. *Applicant Contact:* Dean Howard, Mayor Hyrum City, 83 West Main Street, Hyrum, Utah 84319; (435) 245–6033, or Ken Tuttle or Mike Wilcox, Sunrise Engineering, Inc., 25 East 500 North, Fillmore, UT 84631; (435) 743–6151.

i. *FERC Contact:* Gaylord Hoisington, (202) 502–6032 or *gaylord.hoisington@FERC.gov.*

j. *Deadline for filing scoping comments:* August 30, 2006.

All documents (original and eight copies) should be filed with: Magalie R. Salas, Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

The Commission's Rules of Practice and Procedure require all interveners filing documents with the Commission to serve a copy of that document on each person on the official service list for the project. Further, if an intervener files comments or documents with the Commission relating to the merits of an issue that may affect the responsibilities of a particular resource agency, they must also serve a copy of the document on that resource agency.

Scoping comments may be filed electronically via the Internet in lieu of paper. The Commission strongly encourages electronic filings. See 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site (*http://www.ferc.gov*) under the "e-Filing" link.

k. This application is not ready for environmental analysis at this time.

l. The existing Hyrum City's Hydropower Project includes the following constructed facilities: (1) A 15-foot-high, 70-foot-long earth-fill concrete core embankment to the north, a 14-foot-high, 65-foot-long concrete spillway section, a 15-foot-high, 125-foot-long earth-fill concrete core embankment to the north which makes the total length of the dam approximately 260-foot-long; (2) a 16-foot-high, 8-foot-wide concrete intake structure with a 20-foot-high, 8-foot-wide trash rack and fish ladder; (3) a 60-inch-diameter concrete penstock inlet with head gate; (4) a 3,470-foot-long, 48-inch-diameter concrete penstock going into a 130-foot-long, 42-inch-diameter steel penstock; (5) a 37-acre-foot de-silting pond; (6) a 26-foot-wide, 39-foot-long, 20-foot-high brick powerhouse; (7) a 400-kilowatt Leffel horizontal shaft scroll case turbine; (8) a 100-foot, 2.4-kV underground transmission line; and (9) appurtenant facilities.

m. A copy of the application is available for review at the Commission in the Public Reference Room or may be viewed on the Commission's Web site at *http://www.ferc.gov* using the "eLibrary" link. Enter the docket number excluding the last three digits in the docket number field to access the document. For assistance, contact FERC Online Support at *FERCOnlineSupport@ferc.gov* or toll-free at 1–866–208–3676, or for TTY, (202) 502–8659. A copy is also available for inspection and reproduction at the address in item h above.

You may also register online at *http://www.ferc.gov/docs-filing/esubscription.asp* to be notified via e-mail of new filings and issuances related to this or other pending projects. For assistance, contact FERC Online Support.

n. *Scoping Process.*

The Commission intends to prepare an Environmental Assessment (EA) on the project in accordance with the National Environmental Policy Act. The EA will consider both site-specific and cumulative environmental impacts and reasonable alternatives to the proposed action.

Scoping Meetings

FERC staff will conduct one agency scoping meeting and one public meeting. The agency scoping meeting will focus on resource agency and non-governmental organization (NGO) concerns, while the public scoping meeting is primarily for public input. All interested individuals, organizations, and agencies are invited to attend one or both of the meetings, and to assist the staff in identifying the scope of the environmental issues that should be analyzed in the EA. The times and locations of these meetings are as follows:

Agency Scoping Meeting.
Date: Monday, July 31, 2006.
Time: 1:30 p.m. (MST).
Place: City of Hyrum Town Council Meeting Hall.
Address: 83 West Main Street, Hyrum, UT 84319.

Public Scoping Meeting.
Date: Monday, July 31, 2006.
Time: 7 p.m. (MST).
Place: City of Hyrum Town Council Meeting Hall.

Address: 83 West Main Street, Hyrum, UT 84319.

Copies of the Scoping Document (SD1) outlining the subject areas to be addressed in the EA were distributed to the parties on the Commission's mailing list. Copies of the SD1 will be available at the scoping meeting or may be viewed on the Web at *http://www.ferc.gov* using the "eLibrary" link (see item m above).

Site Visit

The Applicant and FERC staff will conduct a project site visit beginning at 9 a.m. on Monday July 31, 2006. All interested individuals, organizations, and agencies are invited to attend. All participants should RSVP to Guy McBride at 435–245–3652. All participants are responsible for their own transportation to the site.

Objectives

At the scoping meetings, the staff will: (1) Summarize the environmental issues tentatively identified for analysis in the EA; (2) solicit from the meeting participants all available information, especially quantifiable data, on the resources at issue; (3) encourage statements from experts and the public on issues that should be analyzed in the EA, including viewpoints in opposition to, or in support of, the staff's preliminary views; (4) determine the resource issues to be addressed in the EA; and (5) identify those issues that require a detailed analysis, as well as those issues that do not require a detailed analysis.

Procedures

The meetings are recorded by a stenographer and become part of the formal record of the Commission proceeding on the project.

Individuals, organizations, and agencies with environmental expertise and concerns are encouraged to attend the meeting and to assist the staff in defining and clarifying the issues to be addressed in the EA.

Magalie R. Salas,

Secretary.

[FR Doc. E6–11263 Filed 7–14–06; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Western Area Power Administration

Parker-Davis Project—Post-2008 Resource Pool

AGENCY: Western Area Power Administration, DOE.

ACTION: Notice of Proposed Allocation.

SUMMARY: The Western Area Power Administration (Western), a Federal power marketing agency of the Department of Energy (DOE), announces the Parker-Davis Project (P–DP) Post-2008 Resource Pool Proposed Allocation of Power (Resource Pool Proposed Power Allocation), developed under the requirements of the Energy Planning and Management Program (EPAMP). EPAMP provides for establishing project-specific resource pools and power allocations from these pools to new preference customers.

Western's call for applications was published in the October 1, 2004, **Federal Register**. Applications received by January 30, 2005, were considered for the Resource Pool Proposed Power Allocation. Western will prepare and publish the Final Allocation of Power in the **Federal Register** after all public comments have been considered.

DATES: The comment period on the Resource Pool Proposed Power Allocation will begin today and end September 15, 2006. Western must receive all comments by the end of the comment period. Western will hold public information and public comment forums on the Resource Pool Proposed Power Allocation. The public information forum dates and times are:

1. August 29, 2006, 1 p.m. MST, Phoenix, AZ.

2. August 31, 2006, 1 p.m. PDT, Ontario, CA.

The public comment forum dates and times are:

1. September 12, 2006, 1 p.m. MST, Phoenix, AZ.

2. September 14, 2006, 1 p.m. PDT, Ontario, CA.

ADDRESSES: Information regarding the Proposed Power Allocation, including comments, letters, and other supporting documents, is available for public inspection and copying at the Desert Southwest Regional Office, Western Area Power Administration, 615 South 43rd Avenue, Phoenix, AZ 85009. Public comments and related information may be viewed at *http://www.wapa.gov/dsw/pwrmkt*. The public information and comment forum locations are:

1. Phoenix—Western Area Power Administration, Desert Southwest Regional Office, 615 South 43rd Avenue, Phoenix, AZ.

2. Ontario—Doubletree Hotel Ontario Airport, 222 North Vineyard Ave., Ontario, CA.

As access to Western facilities is controlled, any U.S. citizen wishing to attend any meeting held at Western must present an official form of picture identification, such as a U.S. driver's license, U.S. passport, U.S. Government ID, or U.S. Military ID, at the time of the meeting. Foreign nationals should contact Western at least 45 days in advance of the meeting to obtain the necessary form to be admitted to Western's offices.

FOR FURTHER INFORMATION CONTACT: Mr. Brian Young, Remarketing Program Manager, Desert Southwest Regional Office, Western Area Power Administration, P.O. Box 6457, Phoenix, AZ 85005–6457, (602) 605–2594, e-mail *post2008pdp@wapa.gov*.

SUPPLEMENTARY INFORMATION: Western published a notice of Final Allocation Procedures in the December 16, 2005 **Federal Register** (70 FR 74805), to implement Subpart C—Power Marketing Initiative (PMI) of EPAMP's Final Rule, 10 CFR part 905 (60 FR 54151). EPAMP, developed in part to implement Section 114 of the Energy Policy Act of 1992, became effective on November 20, 1995. EPAMP calls for planning and efficient electric energy use by Western's long-term firm power customers and provides a framework for extending Western's firm power resource commitments. One aspect of EPAMP is to establish project-specific power resource pools when existing resource commitments expire and to allocate power from these pools to eligible preference customers. Existing resource commitments for the P–DP expire on September 30, 2008. Western published its decision to apply the EPAMP PMI to the P–DP in the **Federal Register** on May 5, 2003 (68 FR 23709). This decision created a resource pool of approximately 17 megawatts (MW) of summer season capacity and 13 MW of winter season capacity, based on estimates of current P–DP hydroelectric resource availability, for allocation to eligible preference customers for 20 years beginning October 1, 2008. The resource pool includes 0.869 MW of summer season withdrawable capacity and 0.619 MW of winter season withdrawable capacity. The associated energy will be a maximum of 3,441 kilowatthours per kilowatt (kWh/kW) in the summer season and 1,703 kWh/kW in the winter season, based on current marketing plan criteria.

The Resource Pool Proposed Power Allocation was determined from the applications received during the call for applications (69 FR 58900) under the guidelines of the Final Allocation Procedures, the current P–DP Marketing Plan (49 FR 50582, 52 FR 7014, and 52 FR 28333), and EPAMP. Western seeks

comments relevant to the proposed allocations during this comment period.

Proposed Power Allocation

Western received 79 applications for the Post-2008 Resource Pool. Of those, three applicants did not meet the general eligibility requirements. The Final Allocation Criteria provide that firm power would be allocated to qualified applicants in the following order of priority:

1. Preference entities in the P–DP marketing area that do not have a contract with Western for Federal power resources or are not a member of a parent entity that has a contract with Western for Federal power resources.

2. Preference entities in the P–DP marketing area that have a contract with Western for Federal power resources or are a member of a parent entity that has a contract with Western for Federal power resources.

3. Preference entities in adjacent Federal marketing areas that do not have a contract with Western for Federal power resources or are not a member of a parent entity that has a contract with Western for Federal power resources.

Western received one application from a preference entity that has a contract with Western and is located in an adjacent marketing area. As a result, it does not qualify under any of the priority groups. Western did not receive any applications from entities in the third priority of consideration. Western received 41 applications from entities in second priority of consideration and 34 applications from entities that are in the first priority of consideration. In addition, one application identified load for Indian irrigation pumping on Indian lands adjacent to the Colorado River for which priority consideration is required.

The Resource Pool Proposed Power Allocation was made by considering the 75 qualified applicants in light of the following factors: (1) Priority consideration for Indian irrigation pumping on certain Indian lands adjacent to the Colorado River in the lower basin; (2) widespread use of Federal resources; (3) magnitude of direct or indirect benefits from Federal resources; and (4) load. Western proposes to allocate power to 12 applicants in the first priority of consideration and one applicant for irrigation pumping on Indian lands. The proposed allocation amounts are a minimum of 1 MW in accordance with the Final Allocation Procedures.

The proposed allocations are:

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Proposed Allocations Capacity in Megawatts (MW)						
	Summer			Winter		
Allottee	Non-Withdrawable FES Allocation (MW)	Withdrawable FES Allocation (MW)	Total FES Allocation (MW)	Non-Withdrawable FES Allocation (MW)	Withdrawable FES Allocation (MW)	Total FES Allocation (MW)
Agua Caliente Band of Cahuilla Indians	1.000	0.000	1.000	1.000	0.000	1.000
Ak-Chin Maicopa Power Service[1]	2.000	0.000	2.000	0.000	0.000	0.000
Corona, CA. City of	2.000	0.000	2.000	1.000	0.000	1.000
Eastern Arizona Preference Pooling Association[2]	1.000	0.000	1.000	1.000	0.000	1.000
Town of Gilbert, AZ Utility Department	1.000	0.000	1.000	1.000	0.000	1.000
Hohokam Irrigation & Drainage District	1.000	0.000	1.000	1.000	0.000	1.000
Naval Facilities Engineering Command Southwest[3]	1.131	0.869	2.000	1.381	0.619	2.000
Pechanga Band of Luiseño Mission Indians	1.000	0.000	1.000	1.000	0.000	1.000
San Luis Rey River Indian Water Authority[4]	2.000	0.000	2.000	1.000	0.000	1.000
Town of Marana, AZ Water Department	1.000	0.000	1.000	1.000	0.000	1.000
Viejas Band of Kumeyaay Indians	1.000	0.000	1.000	1.000	0.000	1.000
Williams, AZ. City of	1.000	0.000	1.000	1.000	0.000	1.000
City of Yuma, AZ Public Works Department	1.000	0.000	1.000	1.000	0.000	1.000
Total Allocations	16.131	0.869	17.000	12.381	0.619	13.000

[1] Addition to existing post-2008 allocation to serve Indian irrigation pumping load of the Fort Mohave Indian Tribe.

[2] Excludes the Town of Pinetop-Lakeside

[3] Allocation provided equally for Marine Corps Logistics Base in Barstow, CA and Naval Station, 32nd Street in San Diego, CA

[4] Allocation to aggregated group consisting of San Luis Rey River Indian Water Authority, Vista Irrigation District and the City of Escondido, CA Utility Division

Regulatory Procedure Requirements

Regulatory Flexibility Analysis

The Regulatory Flexibility Act of 1980 (5 U.S.C. 601, *et seq.*) requires Federal agencies to perform a regulatory flexibility analysis if a final rule is likely to have a significant economic impact on a substantial number of small entities and there is a legal requirement to issue a general notice of proposed rulemaking. Western has determined that this action does not require a regulatory flexibility analysis since it is a rulemaking of particular applicability involving rates or services applicable to public property.

Environmental Compliance

Western completed an environmental impact statement on EPAMP, under the National Environmental Policy Act of 1969 (NEPA). The Record of Decision was published in 60 FR 53181, October 12, 1995. Western's NEPA review assured all environmental effects related to these actions have been analyzed.

Determination Under Executive Order 12866

Western has an exemption from centralized regulatory review under Executive Order 12866; accordingly, no clearance of this notice by the Office of Management and Budget is required.

Small Business Regulatory Enforcement Fairness Act

Western has determined this rule is exempt from congressional notification requirements under 5 U.S.C. 801 because the action is a rulemaking of particular applicability relating to rates or services and involves matters of procedure.

Dated: July 6, 2006.

Michael S. Hacskaylo,

Administrator.

[FR Doc. E6–11234 Filed 7–14–06; 8:45 am]

BILLING CODE 6450–01–C

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OA–2006–0278; FRL–8197–6]

Agency Information Collection Activities; Submission to OMB for Review and Approval; Comment Request; Minority Business Enterprise/ Woman Business Enterprise (MBE/ WBE) Utilization Under Federal Grants, Cooperative Agreements, and Interagency Agreements (Renewal); EPA ICR No. 2212.02, OMB Control No. 2090–0025

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (PRA) (44 U.S.C. 3501 *et seq.*), this document announces that an Information Collection Request (ICR) has been forwarded to the Office of Management and Budget (OMB) for review and approval. This is a request to renew an existing approved collection. The ICR, which is abstracted below, describes the nature of the information collection and its estimated burden and cost.

DATES: Additional comments may be submitted on or before August 16, 2006.

ADDRESSES: Submit your comments, referencing Docket ID No. EPA–HQ–OA–2006–0278, (1) to EPA online using *www.regulations.gov* (our preferred method), by e-mail to *oei.docket@epamail.gov*, or by mail to: EPA Docket Center, Environmental Protection Agency, MBE/WBE Utilization Under Federal Grants, Cooperative Agreements, and Interagency Agreements, Mailcode: 28221T, 1200 Pennsylvania Ave., NW., Washington, DC 20460, and (2) OMB by mail to: Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), Attention: Desk Officer for EPA, 725 17th Street, NW., Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Kimberly Y. Patrick, Office of Small and Disadvantaged Business Utilization, Mailcode: 1230N, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460; telephone number: 202–564–5386; fax number: 202–501–0139; e-mail address: *Patrick.Kimberly@epa.gov*.

SUPPLEMENTARY INFORMATION: EPA has submitted the following ICR to OMB for review and approval according to the procedures prescribed in 5 CFR 1320.12. On April 3, 2006 (71 FR 16574), EPA sought comments on this ICR pursuant to 5 CFR 1320.8(d). EPA received no comments. Any additional comments on this ICR should be submitted to EPA and OMB within 30 days of this notice.

EPA has established a public docket for this ICR under Docket ID No. EPA–HQ–OA–2006–0278, which is available for online viewing at *www.regulations.gov*, or in person viewing at the Office of Environmental Information Docket in the EPA Docket Center (EPA/DC), EPA West, Room B102, 1301 Constitution Ave., NW., Washington, DC. The EPA/DC Public Reading Room is open from 8 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Reading Room is 202–566–1744, and the telephone number for the Office of Environmental Information Docket is 202–566–1752.

Use EPA's electronic docket and comment system at *www.regulations.gov*, to submit or view public comments, access the index listing of the contents of the docket, and to access those documents in the docket that are available electronically. Once in the system, select "docket search," then key in the docket ID number identified above. Please note that EPA's policy is that public comments, whether submitted electronically or in paper, will be made available for public viewing at ≤*www.regulations.gov* as EPA receives them and without change, unless the comment contains copyrighted material, Confidential Business Information (CBI), or other information whose public disclosure is restricted by statute. For further information about the electronic docket, go to *www.regulations.gov*.

Title: Minority Business Enterprise/ Woman Business Enterprise (MBE/ WBE) Utilization Under Federal Grants, Cooperative Agreements, and Interagency Agreements (Renewal).

ICR numbers: EPA ICR No. 2212.02, OMB Control No. 2090–0025.

ICR Status: This ICR is scheduled to expire on August 31, 2006. Under OMB regulations, the Agency may continue to conduct or sponsor the collection of information while this submission is pending at OMB. An Agency may not conduct or sponsor, and a person is not required to respond to, a collection of information, unless it displays a currently valid OMB control number. The OMB control numbers for EPA's regulations in title 40 of the CFR, after appearing in the **Federal Register** when approved, are listed in 40 CFR part 9, are displayed either by publication in the **Federal Register** or by other appropriate means, such as on the related collection instrument or form, if applicable. The display of OMB control numbers in certain EPA regulations is consolidated in 40 CFR part 9.

Abstract: All EPA financial assistance agreement recipients are required to make good faith efforts to assure that small, minority and women owned businesses are used, when possible, as sources of construction, services, equipment, and supplies. The completion and submission of EPA Form 5700–52A is mandatory. The information collected by EPA Form 5700–52A is used to compile data concerning the utilization of minority and women owned businesses as contractors and subcontractors under procurements funded by EPA financial assistance agreements pursuant to Executive Orders 11625, 12138, and 12432, and Public Laws 101–507 and 102–389. The effectiveness of EPA's MBE/WBE Program is measured through this reporting requirement. The modifications to the form were made to simplify and shorten the form itself. The instructions in the modified form also provide more information about questions frequently asked by respondents.

Burden Statement: The annual public reporting and recordkeeping burden for this collection of information is estimated to average 1.5 hours per response. Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and

maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements which have subsequently changed; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information.

The ICR provides a detailed explanation of the Agency's estimate, which is only briefly summarized here:

Estimated total number of potential respondents: 3600.

Frequency of response: Depending on the type of financial assistance received, respondents either report on an annual or quarterly basis.

Estimated total average number of responses for each respondent: 2.5 average responses per year, including annual and quarterly respondents.

Estimated total annual burden hours: 10,800.

Estimated total annual costs: $548,532. This includes $0 annualized capital startup costs, $0 annualized O&M costs, and $548,532 annualized labor costs.

Changes in the Estimates: The estimates reflect an increase in Respondent burden hours and costs due to extra time needed to review the new instructions for the form. Even though we received no comments regarding the form from our consultation efforts, or from public comments, hours to gather information to complete the form were increased in response to past comments about the form. The total change in burden represents an increase from 1 burden hour to 1.5 burden hours.

Dated: July 8, 2006.

Oscar Morales,

Director, Collection Strategies Division.

[FR Doc. E6–11250 Filed 7–14–06; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OW–2003–0011; FRL–8197–7]

Agency Information Collection Activities; Submission to OMB for Review and Approval; Comment Request; Notice of Intent for Stormwater Discharges Associated With Construction Activity Under a NPDES General Permit, EPA ICR No. 1842.05, OMB Control No. 2040–0188

AGENCY: Environmental Protection Agency.

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*), this document announces that an Information Collection Request (ICR) has been forwarded to the Office of Management and Budget (OMB) for review and approval. This is a request to renew an existing approved collection. This ICR is scheduled to expire on September 30, 2006. Under OMB regulations, the Agency may continue to conduct or sponsor the collection of information while this submission is pending at OMB. This ICR describes the nature of the information collection and its estimated burden and cost.

DATES: Additional comments may be submitted on or before August 16, 2006.

ADDRESSES: Submit your comments, referencing docket ID number EPA–HQ–OW–2003–0011, to (1) EPA online using *www.regulations.gov* (our preferred method), by e-mail to *ow-docket@epa.gov*, or by mail to: EPA Docket Center, Environmental Protection Agency, Water Docket, Mail Code 4101T, 1200 Pennsylvania Ave., NW., Washington, DC 20460, and (2) OMB at: Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), Attention: Desk Officer for EPA, 725 17th Street, NW., Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Lynn Stabenfeldt, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460; telephone number: 202–564–0602; fax number: 202–501–2399; e-mail address: *stabenfeldt.lynn@epa.gov.*

SUPPLEMENTARY INFORMATION: EPA has submitted the following ICR to OMB for review and approval according to the procedures prescribed in 5 CFR 1320.12. On March 7, 2006 (71 FR 11401–11411), EPA sought comments on this ICR pursuant to 5 CFR 1320.8(d). EPA received one set of comments on the draft ICR. EPA's response to those comments is reflected in the ICR supporting statement. Any additional comments on this ICR should be submitted to EPA and OMB within 30 days of this notice.

EPA has established a public docket for this ICR under Docket ID No. EPA–HQ–OW–2003–0011, which is available for online viewing at *www.regulations.gov*, or in person viewing at the Water Docket in the 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 Reading Room is (202) 566–1744, and the telephone number for the Water Docket is (202) 566–2426.

Use EPA's electronic docket and comment system at *www.regulations.gov*, to submit or view public comments, access the index listing of the contents of the docket, and to access those comments in the docket that are available electronically. Once in the system, select "docket search," then key in the docket ID number identified above. Please note that EPA's policy is that public comments, whether submitted electronically or in paper, will be made available for public viewing at *www.regulations.gov* as EPA receives them and without change, unless the comment contains copyrighted material, CBI, or other information whose public disclosure is restricted by statute. For further information about the electronic docket, go to *www.regulations.gov*.

Title: Notice of Intent for Stormwater Discharges Associated with Construction Activity Under a NPDES General Permit.

ICR Numbers: EPA ICR No. 1842.05, OMB Control No. 2040–0188.

ICR Status: This ICR is scheduled to expire on September 30, 2006. Under OMB regulations, the Agency may continue to conduct or sponsor the collection of information while this submission is pending at OMB. An Agency may not conduct or sponsor, and a person is not required to respond to, a collection of information, unless it displays a currently valid OMB control number. The OMB control numbers for EPA's regulations in title 40 of the CFR, after appearing in the **Federal Register** when approved, are listed in 40 CFR part 9, are displayed either by publication in the **Federal Register** or by other appropriate means, such as on the related collection instrument or form, if applicable. The display of OMB control numbers in certain EPA regulations is consolidated in 40 CFR part 9.

Abstract: EPA's National Pollutant Discharge Elimination System (NPDES) Permitting Program, as authorized by the Clean Water Act (CWA), establishes regulations for the discharge of pollutants or combinations of pollutants to waters of the United States, including discharges of stormwater from construction activities disturbing five acres or more. The primary permitting mechanism for construction site operators is the Construction General Permit (CGP), issued by EPA or a state authorized to administer the NPDES Program. To obtain coverage under the CGP, a construction site operator must

submit a Notice of Intent (NOI) to the permitting authority and develop a Stormwater Pollution Prevention Plan (SWPPP). The information collection and reporting activities covered in this ICR include only those activities related to completing and submitting an NOI form, developing a SWPPP, and conducting routine inspections. This ICR only covers the burden on construction sites of five or more acres, as small construction activities are addressed in the Stormwater Phase II ICR (OMB Control Number 2040–0188, EPA ICR Number 1842.05).

Burden Statement: The annual public reporting and recordkeeping burden for this collection of information is estimated to average 51.3 hours per respondent in NPDES-authorized states and 53.5 hours per respondent in states and territories where EPA is the permitting authority. Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information.

Respondents/Affected Entities: Entities potentially affected by this action are those which have storm water discharges associated with large construction activity (40 CFR 122.25(b)(14)(x)) to waters of the U.S.

Estimated Number of Respondents: 157,546.

Frequency of Response: Once initially, prior to commencement of construction.

Estimated Total Annual Hour Burden: 8,247,638 hours.

Estimated Total Annual Cost: $375,329,979, includes $0 annualized capital or O&M costs.

Changes in the Estimates: The estimated increase in burden is 327,393 hours compared to the total estimated burden hours currently identified in the OMB Inventory of Approved ICR Burden. The increase in applicant respondent and NPDES-authorized state burden is primarily the result of one change, that being the addition of routine site inspection burden for existing large construction sites (previously not addressed in any ICR). A portion of the burden is reduced based on EPA's estimate of the number of entities affected by this information collection.

Dated: July 8, 2006.

Oscar Morales,

Director, Collection Strategies Division.

[FR Doc. E6–11251 Filed 7–14–06; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OW–2006–0138; FRL–8197–8]

Agency Information Collection Activities; Submission to OMB for Review and Approval; Comment Request; Applications for the National Pollutant Discharge Elimination System Discharge Permit and the Sewage Sludge Management Permit, EPA ICR No. 0226.18, OMB Control No. 2040–0086

AGENCY: Environmental Protection Agency.

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*), this document announces that an Information Collection Request (ICR) has been forwarded to the Office of Management and Budget (OMB) for review and approval. This is a request to renew an existing approved collection. This ICR is scheduled to expire on September 30, 2006. Under OMB regulations, the Agency may continue to conduct or sponsor the collection of information while this submission is pending at OMB. This ICR describes the nature of the information collection and its estimated burden and cost.

DATES: Additional comments may be submitted on or before August 16, 2006.

ADDRESSES: Submit your comments, referencing docket ID number EPA–HQ–OW–2006–0138, to (1) EPA online using *www.regulations.gov* (our preferred method), by e-mail to *ow-docket@epa.gov*, or by mail to: EPA Docket Center, Environmental Protection Agency, Water Docket, Mail Code 4101T, 1200 Pennsylvania Ave., NW., Washington, DC 20460, and (2) OMB at: Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), Attention: Desk Officer for EPA, 725 17th Street, NW., Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Lynn Stabenfeldt, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460; telephone number: 202.564.0602; fax number: 202.501.2399; e-mail address: *stabenfeldt.lynn@epa.gov*.

SUPPLEMENTARY INFORMATION: EPA has submitted the following ICR to OMB for review and approval according to the procedures prescribed in 5 CFR 1320.12. On March 7, 2006 (71 FR 11407–11411), EPA sought comments on this ICR pursuant to 5 CFR 1320.8(d). EPA received one set of comments on the draft ICR. EPA's response to those comments is reflected in the ICR supporting statement. Any additional comments on this ICR should be submitted to EPA and OMB within 30 days of this notice.

EPA has established a public docket for this ICR under Docket ID No. EPA–HQ–OW–2006–0138, which is available for online viewing at *www.regulations.gov*, or in person viewing at the Water Docket in the 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 Reading Room is (202) 566–1744, and the telephone number for the Water Docket is (202) 566–2426.

Use EPA's electronic docket and comment system at *www.regulations.gov*, to submit or view public comments, access the index listing of the contents of the docket, and to access those comments in the docket that are available electronically. Once in the system, select "docket search," then key in the docket ID number identified above. Please note that EPA's policy is that public comments, whether submitted electronically or in paper, will be made available for public viewing at *www.regulations.gov* as EPA receives them and without change, unless the comment contains copyrighted material, CBI, or other information whose public disclosure is restricted by statute. For further information about the electronic docket, go to *www.regulations.gov*.

Title: Applications for the National Pollutant Discharge Elimination System Discharge Permit and the Sewage Sludge Management Permit.

ICR Numbers: EPA ICR No. 0226.18, OMB Control No.2040–0086.

ICR Status: This ICR is scheduled to expire on September 30, 2006. Under OMB regulations, the Agency may continue to conduct or sponsor the collection of information while this submission is pending at OMB. An

Agency may not conduct or sponsor, and a person is not required to respond to, a collection of information, unless it displays a currently valid OMB control number. The OMB control numbers for EPA's regulations in title 40 of the CFR, after appearing in the **Federal Register** when approved, are listed in 40 CFR part 9, are displayed either by publication in the **Federal Register** or by other appropriate means, such as on the related collection instrument or form, if applicable. The display of OMB control numbers in certain EPA regulations is consolidated in 40 CFR part 9.

Abstract: This ICR calculates the burden and costs associated with permit applications for NPDES discharges and sewage sludge management activities. EPA uses the data contained in applications and supplemental information requests to set appropriate permit conditions, issue permits, and assess permit compliance. EPA maintains certain national application information in databases that assist permit writers in determining permit conditions. For most permits, EPA has developed standard application forms. In some cases, such as requests for additional information and storm water applications from municipal separate sewer systems, standard forms do not exist because standard forms are not appropriate for the information collected or because they have not been developed. Application forms correspond to the different types of applicants, each form requesting information necessary for issuing permits to the associated applicants. Depending on the application form they are using, applicants may be required to supply information about their facilities, discharges, treatment systems, sewage sludge use and disposal practices, pollutant sampling data, or other relevant information. Section 308 of the Clean Water Act authorizes EPA to request from dischargers any information that may be reasonably required to carry out the objectives and provision of the Act. Under this authority, EPA sometimes requests information supplemental to that contained in permit applications. In its burden and cost calculations, this ICR includes requests for information supplemental to permit applications. Other parts of the Clean Water Act and Federal regulations authorize EPA to collect information that supplements permit applications, such as section 403(c). This ICR calculates the burden and costs for all information collection activities associated with applications for permits. Application information is necessary to obtain an NPDES or sewage sludge permit.

Burden Statement: The annual public reporting and recordkeeping burden for this collection of information is estimated to average less than 5 hours per response. Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements which have subsequently changed; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information.

Respondents/Affected Entities: Entities potentially affected by this action are publicly owned treatment works (POTWs), privately owned treatment works, new and existing manufacturing and commercial dischargers, storm water dischargers, treatment works treating domestic sewage (TWTDS), and other entities that apply for NPDES permits.

Estimated Number of Respondents: 249,494.

Frequency of Response: Once every five years.

Estimated Total Annual Hour Burden: 1,358,253 hours.

Estimated Total Annual Cost: $48,587,228, includes $0 for capital investment and $5,379,500 for O&M costs.

Changes in the Estimates: The estimated decrease in burden is 41,728 hours compared to the total estimated burden hours currently identified in the OMB Inventory of Approved ICR Burden. This change is primarily the result of updating the universe of permitted facilities subject to these requirements.

Dated: July 7, 2006.

Oscar Morales,

Director, Collection Strategies Division.

[FR Doc. E6–11252 Filed 7–14–06; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OW–2002–0053; FRL–8197–9]

Agency Information Collection Activities; Submission to OMB for Review and Approval; Comment Request; NPDES Stormwater Program Phase II, EPA ICR No. 1820.04, OMB Control No. 2040–0211

AGENCY: Environmental Protection Agency.

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*), this document announces that an Information Collection Request (ICR) has been forwarded to the Office of Management and Budget (OMB) for review and approval. This is a request to renew an existing approved collection. This ICR is scheduled to expire on September 30, 2006. Under OMB regulations, the Agency may continue to conduct or sponsor the collection of information while this submission is pending at OMB. This ICR describes the nature of the information collection and its estimated burden and cost.

DATES: Additional comments may be submitted on or before August 16, 2006.

ADDRESSES: Submit your comments, referencing docket ID number EPA–HQ–OW–2002–0053, to (1) EPA online using *www.regulations.gov* (our preferred method), by e-mail to *ow-docket@epa.gov*, or by mail to: EPA Docket Center, Environmental Protection Agency, Water Docket, Mail Code 4101T, 1200 Pennsylvania Ave., NW., Washington, DC 20460, and (2) OMB at: Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), Attention: Desk Officer for EPA, 725 17th Street, NW., Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Lynn Stabenfeldt, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460; telephone number: 202.564.0602; fax number: 202.501.2399; e-mail address: *stabenfeldt.lynn@epa.gov.*

SUPPLEMENTARY INFORMATION: EPA has submitted the following ICR to OMB for review and approval according to the procedures prescribed in 5 CFR 1320.12. On March 7, 2006 (71 FR 11407–11411), EPA sought comments on this ICR pursuant to 5 CFR 1320.8(d). EPA received one set of comments on the draft ICR. EPA's response to those comments is reflected in the ICR

supporting statement. Any additional comments on this ICR should be submitted to EPA and OMB within 30 days of this notice.

EPA has established a public docket for this ICR under Docket ID No. EPA–HQ–OW–2002–0053, which is available for online viewing at *www.regulations.gov*, or in person viewing at the Water Docket in the 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 Reading Room is (202) 566–1744, and the telephone number for the Water Docket is (202) 566–2426.

Use EPA's electronic docket and comment system at *www.regulations.gov*, to submit or view public comments, access the index listing of the contents of the docket, and to access those comments in the docket that are available electronically. Once in the system, select "docket search," then key in the docket ID number identified above. Please note that EPA's policy is that public comments, whether submitted electronically or in paper, will be made available for public viewing at *www.regulations.gov* as EPA receives them and without change, unless the comment contains copyrighted material, CBI, or other information whose public disclosure is restricted by statute. For further information about the electronic docket, go to *www.regulations.gov*.

Title: NPDES Stormwater Program Phase II.

ICR numbers: EPA ICR No. 1820.04, OMB Control No. 2040–0211.

ICR Status: This ICR is scheduled to expire on September 30, 2006. Under OMB regulations, the Agency may continue to conduct or sponsor the collection of information while this submission is pending at OMB. An Agency may not conduct or sponsor, and a person is not required to respond to, a collection of information, unless it displays a currently valid OMB control number. The OMB control numbers for EPA's regulations in title 40 of the CFR, after appearing in the **Federal Register** when approved, are listed in 40 CFR part 9, are displayed either by publication in the **Federal Register** or by other appropriate means, such as on the related collection instrument or form, if applicable. The display of OMB control numbers in certain EPA regulations is consolidated in 40 CFR part 9.

Abstract: This ICR calculates the burden and costs associated with the regulation of stormwater discharges under Phase II of the NPDES stormwater program. Specifically, it calculates the burden associated with small MS4 stormwater permits, small construction (1–5 acres) permits and waivers, and the no-exposure certification (EPA form 3510–11) available to industrial facilities. The ICR also specifies the burden on authorized NPDES States to process and administer the Phase II program.

Burden Statement: The annual public reporting and recordkeeping burden for this collection of information is estimated to average 14 hours per response. Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements which have subsequently changed; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information.

Respondents/Affected Entities: Entities potentially affected by this action are NPDES permittees, including operators of small municipal separate storm sewer systems, small construction activity, and industrial facilities identified in 40 CFR 122.26(b)(14)(i)–(ix) and (xi) that qualify for a no exposure exemption.

Estimated Number of Respondents: 135,908.

Frequency of Response: Varies.

Estimated Total Annual Hour Burden: 3,696,276 hours.

Estimated Total Annual Cost: $157,922,968, includes $0 annualized capital or O&M costs.

Changes in the Estimates: The estimated decrease in burden is 1,262,076 hours compared to the total estimated burden hours currently identified in the OMB Inventory of Approved ICR Burdens. This change is primarily the result of the decrease in the estimated size of the regulated universe (based on EPA's estimate of the number of construction sites affected by this information collection).

Dated: July 8, 2006.

Oscar Morales,

Director, Collection Strategies Division.

[FR Doc. E6–11253 Filed 7–14–06; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OEI–2006–0515; FRL–8198–1]

Agency Information Collection Activities; Proposed Collection; Comment Request; Confidentiality Rules (Renewal); EPA ICR No. 1665.07, OMB Control No. 2020–0003

AGENCY: Environmental Protection Agency.

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (PRA) (44 U.S.C. 3501 *et seq.*), this document announces that EPA is planning to submit the following continuing Information Collection Request (ICR) to the Office of Management and Budget (OMB). This ICR is scheduled to expire on November 30, 2006. Before submitting the ICR to OMB for review and approval, EPA is soliciting comments on specific aspects of the proposed information collection as described below.

DATES: Comments must be submitted on or before September 15, 2006.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–HQ–OEI–2006–0515, by one of the following methods:

- *www.regulations.gov*: Follow the on-line instructions for submitting comments.
- Email: *docket.oei@epa.gov*.
- Fax: 202–566–0224.
- Mail: Office of Environmental Information Docket (OEI), Environmental Protection Agency, Mailcode: 2822T, 1200 Pennsylvania Ave., NW., Washington, DC 20460.
- Hand Delivery: 1301 Constitution Ave., NW., Washington, DC 20460, Room B102. Such deliveries are only accepted during the Docket's normal hours of operation, and special arrangements should be made for deliveries of boxed information.

Instructions: Direct your comments to Docket ID No. EPA–HQ–OEI–2006–0515. EPA's policy is that all comments received will be included in the public docket without change and may be made available online at *www.regulations.gov*, including any personal information provided, unless the comment includes information claimed to be Confidential Business

Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through *www.regulations.gov* or e-mail. The *www.regulations.gov* Web site is an "anonymous access" system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through *www.regulations.gov* your e-mail address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD-ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses. For additional information about EPA's public docket visit the EPA Docket Center homepage at *http://www.epa.gov/epahome/dockets.htm.*

FOR FURTHER INFORMATION CONTACT: Larry F. Gottesman, National FOIA Officer, Collection Strategies Division, Office of Information Collection, 2822T, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460; telephone number: 202–566–2162; fax number: 202–566–2147; e-mail address: gottesman.larry@epa.gov.

SUPPLEMENTARY INFORMATION:

How Can I Access the Docket and/or Submit Comments?

EPA has established a public docket for this ICR under Docket ID No. EPA–HQ–OEI–2006–0515, which is available for online *viewing at www.regulations.gov*, or in person viewing at the OEI Docket in the EPA Docket Center (EPA/DC), EPA West, Room B102, 1301 Constitution Ave., NW., Washington, DC. The EPA/DC Public Reading Room is open from 8 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Reading Room is 202–566–1744, and the telephone number for the OEI Docket is 202–566–1752.

Use *www.regulations.gov* to obtain a copy of the draft collection of information, submit or view public comments, access the index listing of the contents of the docket, and to access those documents in the public docket that are available electronically. Once in the system, select "search," then key in the docket ID number identified in this document.

What Information Is EPA Particularly Interested in?

Pursuant to section 3506(c)(2)(A) of the PRA, EPA specifically solicits comments and information to enable it to:

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

(ii) evaluate the accuracy of the Agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(iii) enhance the quality, utility, and clarity of the information to be collected; and

(iv) minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.*, permitting electronic submission of responses. In particular, EPA is requesting comments from very small businesses (those that employ less than 25) on examples of specific additional efforts that EPA could make to reduce the paperwork burden for very small businesses affected by this collection.

What Should I Consider When I Prepare My Comments for EPA?

You may find the following suggestions helpful for preparing your comments:

1. Explain your views as clearly as possible and provide specific examples.

2. Describe any assumptions that you used.

3. Provide copies of any technical information and/or data you used that support your views.

4. If you estimate potential burden or costs, explain how you arrived at the estimate that you provide.

5. Offer alternative ways to improve the collection activity.

6. Make sure to submit your comments by the deadline identified under **DATES**.

7. To ensure proper receipt by EPA, be sure to identify the docket ID number assigned to this action in the subject line on the first page of your response. You may also provide the name, date, and **Federal Register** citation.

What Information Collection Activity or ICR Does This Apply to?

Affected entities: Entities potentially affected by this action are businesses or other for-profit entities.

Title: Confidentiality Rules (Renewal).

ICR numbers: EPA ICR No. 1665.07, OMB Control No. 2020–0003.

ICR status: This ICR is currently scheduled to expire on November 30, 2006. An Agency may not conduct or sponsor, and a person is not required to respond to, a collection of information, unless it displays a currently valid OMB control number. The OMB control numbers for EPA's regulations in title 40 of the CFR, after appearing in the **Federal Register** when approved, are listed in 40 CFR part 9, are displayed either by publication in the **Federal Register** or by other appropriate means, such as on the related collection instrument or form, if applicable. The display of OMB control numbers in certain EPA regulations is consolidated in 40 CFR part 9.

Abstract: In the course of administering environmental protection statutes, EPA collects data from thousands of facilities in many sectors of the U.S. economy. In many cases, industry marks the data it submits to EPA as CBI. In addition, businesses submit information to EPA without the Agency requesting the information. EPA established the procedures described in 40 CFR part 2, subparts A and B, to protect the confidentiality of information as well as the rights of the public to obtain access to information under the Freedom of Information Act (FOIA). In accordance with these regulations, when EPA finds it necessary to make a final confidentiality determination (*e.g.*, in response to a FOIA request or in the course of rulemaking or litigation), or in advance confidentiality determination, it shall notify the effected business and provides an opportunity to comment (*i.e.*, to submit a substantiation of confidentiality claim). This ICR relates to the collection of information that will assist EPA in determining whether previously submitted information is entitled to confidential treatment.

Current Burden Statement: The annual public reporting and recordkeeping burden for this collection of information is estimated to average 14 hours to prepare and submit each substantiation or 6,302 hours. 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; adjusting the existing ways to comply with any previously applicable instructions and requirements which have subsequently changed; training personnel to be able to respond to a collection of information; searching data sources; completing and reviewing the collection of information; and transmitting or otherwise disclosing the information.

In addition, EPA utilizes the services of contractors/subcontractors under the authority of 40 CFR part 2, subpart B, all contractors/subcontractors who may be given access to confidential business information must first sign confidentiality agreements state that they will honor the terms of the contract/subcontract which requires the protection of CBI. The annual total burden for signing and maintaining the agreements would be 130.3 hours.

The ICR provides a detailed explanation of the Agency's estimate, which is only briefly summarized here:

Estimated total number of potential respondents: 1,330.

Frequency of response: On occasion.

Estimated total average number of responses for each respondent: 1.

Estimated total annual burden hours: 6,432.3 hours.

Estimated total annual costs: $212,185.24. This includes an estimated burden cost of $0 for capital investment or maintenance and operational costs.

Are There Changes in the Estimates From the Last Approval?

No.

What Is the Next Step in the Process for This ICR?

EPA will consider the comments received and amend the ICR as appropriate. The final ICR package will then be submitted to OMB for review and approval pursuant to 5 CFR 1320.12. At that time, EPA will issue another **Federal Register** notice pursuant to 5 CFR 1320.5(a)(1)(iv) to announce the submission of the ICR to OMB and the opportunity to submit comments to OMB. If you have any questions about this ICR or the approval process, please contact the technical person listed under **FOR FURTHER INFORMATION CONTACT**.

Dated: July 8, 2006.

Oscar Morales,

Division Director, Collection Strategies Division, Office of Information Collection.

[FR Doc. E6–11255 Filed 7–14–06; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OECA–2005–0064; FRL–8197–5]

Agency Information Collection Activities: Submission for OMB Review and Approval; Comment Request; NSPS for Electric Utility Steam Generating Units (Renewal), ICR Number 1053.08, OMB Number 2060–0023

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*), this document announces that the following Information Collection Request (ICR) has been forwarded to the Office of Management and Budget (OMB) for review and approval: NSPS for Electric Utility Steam Generating Units (40 CFR part 60, subpart Da), OMB Control Number 2060–0023, EPA ICR Number 1053.08. The ICR, which is abstracted below, describes the nature of the information collection and its estimated burden and cost.

DATES: Comments must be submitted on, or before August 16, 2006.

ADDRESSES: Follow the detailed instructions in the **SUPPLEMENTARY INFORMATION** section.

FOR FURTHER INFORMATION CONTACT: Gregory Fried, Compliance Assessment and Media Programs Division, Office of Compliance, Mail Code 2223A, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460; telephone number (202) 564–7016; fax number (202) 564–0050; e-mail address *fried.gregory@epa.gov.*

SUPPLEMENTARY INFORMATION: EPA has submitted the following ICR to OMB for review and approval according to the procedures prescribed in 5 CFR 1320.12. On September 21, 2005 (70 FR 55368), EPA sought comments on this ICR pursuant to 5 CFR 1320.8(d). EPA received no comments.

EPA has established a public docket for this ICR under Docket ID Number EPA–HQ–OECA–2005–0064, which is available for public viewing at the Enforcement and Compliance Docket and Information Center in the EPA Docket Center (EPA/DC), EPA West, Room B102, 1301 Constitution Avenue, NW., Washington, DC. The EPA Docket Center Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Reading Room is (202) 566–1744, and the telephone number for the Enforcement and Compliance Docket and Information Center is (202) 566–1514. An electronic version of the public docket is available through the Federal Docket Management System (FDMS) at *http://www.regulations.gov.* Use FDMS to submit or view public comments, access the index listing of the contents of the public docket, and to access those documents in the public docket that are available electronically. When in the system, select "search," then key in the Docket ID Number identified above. Also, you can send comments to the Office of Information and Regulatory Affairs, Office of Management and Budget, 725 17th Street, NW., Washington, DC 20503, Attention: Desk Officer for EPA. Please include the EPA Docket ID Number EPA–HQ–OECA–2005–0064 and OMB Control Number 2060–0023 in any correspondence.

Any comments related to this ICR should be submitted to EPA and OMB within 30 days of this notice, and according to the following detailed instructions: (1) Submit your comments to EPA online using FDMS (our preferred method), by e-mail to *docket.oeca@epa.gov* or by mail to EPA Docket Center, Environmental Protection Agency, Mail code: 2201T, 1200 Pennsylvania Ave., NW., Washington, DC 20460, and (2) Mail your comments to OMB at: Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), Attention: Desk Officer for EPA, 725 17th Street, NW., Washington, DC 20503.

EPA's policy is that public comments, whether submitted electronically or in paper, will be made available for public viewing in FDMS as EPA receives them without change, unless the comment contains copyrighted material, Confidential Business Information (CBI), or other information whose public disclosure is restricted by statute. When EPA identifies a comment containing copyrighted material, EPA will provide a reference to that material in the version of the comment that is placed in FDMS. The entire printed comment, including the copyrighted material, will be available in the public docket. Although identified as an item in the official docket, information claimed as CBI, or whose disclosure is otherwise restricted by statute, is not included in the official public docket, see EPA's **Federal Register** notice describing the electronic docket at 67 FR 38102 (May 31, 2002), or go to *http://www.regulations.gov.*

Title: NSPS for Electric Utility Steam Generating Units (Renewal).

EPA ICR Number: 1053.08; OMB Control Number 2060–0023.

This is a request to renew an existing approved collection that is scheduled to expire on July 31, 2006. Under the OMB regulations, the Agency may continue to conduct or sponsor the collection of information while this submission is pending at OMB.

Abstract: Owners or operators of electric utility steam generating units subject to the New Source Performance Standards (NSPS) subpart Da must make one-time notification of construction/reconstruction, anticipated and actual startup, initial performance test, physical or operational changes, and demonstration of a continuous monitoring system. They also must submit a report on initial performance test results, monitoring results, and excess emissions. Records must be maintained of startups, shutdowns, malfunctions, periods when the continuous monitoring system is inoperative, and of various fuel combustion and pollutant emission parameters.

The required notifications are used to inform the Agency or delegated authority when a source becomes subject to the standard. Performance test reports are needed, as these are the Agency's records of a source's initial capability to comply with the emission standard, and serve as a record of the operating conditions under which compliance was achieved. The monitoring and excess emissions reports are used for problem identification, as a check on source operation and maintenance, and for compliance determination. The information collected from recordkeeping and reporting requirements are used for targeting inspections and for other uses in compliance and enforcement programs.

Responses to these information collections are deemed mandatory by section 114(a) of the Clean Air Act. The required information consists of emissions data and other information that have been determined not to be private. However, any information submitted to the Agency for which a claim of confidentiality is made will be safeguarded according to the Agency policies set forth in Title 40, Chapter 1, Part 2, Subpart B—Confidentiality of Business Information (see 40 CFR 2; 41 FR 36902, September 1, 1976; amended by 43 FR 4000, September 8, 1978; 43 FR 42251, September 20, 1978; 44 FR 17674, March 23, 1979).

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, and are identified on the form and/or instrument, if applicable.

Burden Statement: The annual public reporting and recordkeeping burden for this collection of information is estimated to average 85 hours per response. Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements; train personnel to respond to a collection of information; search data sources; complete and review the collection of information; and transmit, or otherwise disclose the information.

Respondents/Affected Entities: Owners or operators of electric utility steam generating units subject to subpart Da.

Estimated Number of Respondents: 655.

Frequency of Response: Semiannually, quarterly.

Estimated Total Annual Hour Burden: 133,553.

Estimated Total Annual Cost: $19,490,000, includes $2,200,000 annualized capital and $9,660,000 O&M costs.

Dated: July 8, 2006.

Oscar Morales,

Director, Collection Strategies Division.

[FR Doc. E6–11256 Filed 7–14–06; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OAR–2006–0525; FRL–8198–4]

Agency Information Collection Activities; Proposed Collection; Comment Request; Registration of Fuels and Fuel Additives—Health-Effects Research Requirements for Manufacturers; EPA ICR No. 1696.05, OMB Control No. 2060–0297

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (PRA) (44 U.S.C. 3501 et seq., this document announces that EPA is planning to submit a request to renew an existing approved Information Collection Request (ICR) to the Office of Management and Budget (OMB). This ICR is scheduled to expire on November 30, 2006. Before submitting the ICR to OMB for review and approval, EPA is soliciting comments on specific aspects of the proposed information collection as described below.

DATES: Comments must be submitted on or before September 15, 2006.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–HQ–OAR–2006–0525, by one of the following methods:

- *www.regulations.gov:* Follow the on-line instructions for submitting comments.
- *E-mail: a-and-r-docket@epa.gov.*
- *Fax:* (202) 566–1741.
- *Mail:* Air and Radiation Docket, Docket ID No. EPA–HQ–OAR–2006–0525, Environmental Protection Agency, Mailcode: 6102T, 1200 Pennsylvania Avenue, NW., Washington, DC 20460.
- *Hand Delivery:* EPA Docket Center, Room B102, EPA West Building, 1301 Constitution Avenue, NW., Washington, DC 20460. Such deliveries are only accepted during the Docket's normal hours of operation, and special arrangements should be made for deliveries of boxed information.

Instructions: Direct your comments to Docket ID No. EPA–HQ–OAR–2006–0525. EPA's policy is that all comments received will be included in the public docket without change and may be made available online at *www.regulations.gov,* including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through *www.regulations.gov* or e-mail. The *www.regulations.gov* Web site is an "anonymous access" system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through *www.regulations.gov* your e-mail address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD–ROM

you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses. For additional information about EPA's public docket visit the EPA Docket Center homepage at *http://www.epa.gov/epahome/dockets.htm.*

FOR FURTHER INFORMATION CONTACT: James W. Caldwell, Office of Transportation and Air Quality, Mailcode: 6406J, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460; telephone number: (202) 343–9303; fax number: (202) 343–2802; e-mail address: *caldwell.jim@epa.gov.*

SUPPLEMENTARY INFORMATION:

How Can I Access the Docket and/or Submit Comments?

EPA has established a public docket for this ICR under Docket ID No. EPA–HQ–OAR–2006–0525, which is available for online viewing at *www.regulations.gov,* or in person viewing at the Air and Radiation Docket in the EPA Docket Center (EPA/DC), EPA West, Room B102, 1301 Constitution Avenue, NW., Washington, DC. The EPA/DC Public Reading Room is open from 8 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Reading Room is 202–566–1744, and the telephone number for the Air and Radiation Docket is 202–566–1742.

Use *www.regulations.gov* to obtain a copy of the draft collection of information, submit or view public comments, access the index listing of the contents of the docket, and to access those documents in the public docket that are available electronically. Once in the system, select "search," then key in the docket ID number identified in this document.

What Information Is EPA Particularly Interested in?

Pursuant to section 3506(c)(2)(A) of the PRA, EPA specifically solicits comments and information to enable it to:

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

(ii) Evaluate the accuracy of the Agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

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

(iv) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses. In particular, EPA is requesting comments from very small businesses (those that employ less than 25) on examples of specific additional efforts that EPA could make to reduce the paperwork burden for very small businesses affected by this collection.

What Should I Consider When I Prepare My Comments for EPA?

You may find the following suggestions helpful for preparing your comments:

1. Explain your views as clearly as possible and provide specific examples.
2. Describe any assumptions that you used.
3. Provide copies of any technical information and/or data you used that support your views.
4. If you estimate potential burden or costs, explain how you arrived at the estimate that you provide.
5. Offer alternative ways to improve the collection activity.
6. Make sure to submit your comments by the deadline identified under **DATES.**
7. To ensure proper receipt by EPA, be sure to identify the docket ID number assigned to this action in the subject line on the first page of your response. You may also provide the name, date, and **Federal Register** citation.

What Information Collection Activity or ICR Does This Apply to?

Affected entities: Entities potentially affected by this action are the manufacturers of motor-vehicle gasoline, motor-vehicle diesel fuel, and additives for those fuels.

Title: Registration of Fuels and Fuel Additives—Health-Effects Research Requirements for Manufacturers.

ICR numbers: EPA ICR No. 1696.05, OMB Control No. 2060–0297.

ICR status: This ICR is currently scheduled to expire on November 30, 2006. An Agency may not conduct or sponsor, and a person is not required to respond to, a collection of information, unless it displays a currently valid OMB control number. The OMB control numbers for EPA's regulations in title 40 of the CFR, after appearing in the **Federal Register** when approved, are listed in 40 CFR part 9, are displayed either by publication in the **Federal Register** or by other appropriate means, such as on the related collection instrument or form, if applicable. The display of OMB control numbers in certain EPA regulations is consolidated in 40 CFR part 9.

Abstract: In accordance with the regulations at 40 CFR part 79, Subparts A, B, C, and D, Registration of Fuels and Fuel Additives, manufacturers (including importers) of motor-vehicle gasoline, motor-vehicle diesel fuel, and additives for those fuels, are required to have these products registered by the EPA prior to their introduction into commerce. Registration involves providing a chemical description of the fuel or additive, and certain technical, marketing, and health-effects information. The development of health-effects data, as required by 40 CFR part 79, subpart F, is the subject of this ICR. The information collection requirements for Subparts A through D, and the supplemental notification requirements of subpart F (indicating how the manufacturer will satisfy the health-effects data requirements) are covered by a separate ICR (EPA ICR Number 309.11, OMB Control Number 2060–1050). The health-effects data will be used to determine if there are any products which have evaporative or combustion emissions that may pose an unreasonable risk to public health, thus meriting further investigation and potential regulation. This information is required for specific groups of fuels and additives as defined in the regulations. For example, gasoline and gasoline additives which consist of only carbon, hydrogen, oxygen, nitrogen, and/or sulfur, and which involve a gasoline oxygen content of less than 1.5 weight percent, fall into a "baseline" group. Oxygenates, such as ethanol and ethyl tertiary butyl ether, when used in gasoline at an oxygen level of at least 1.5 weight percent, define separate "nonbaseline" groups for each oxygenate. Additives which contain elements other than carbon, hydrogen, oxygen, nitrogen, and sulfur fall into separate "atypical" groups. There are similar grouping requirements for diesel fuel and diesel fuel additives.

Manufacturers may perform the research independently or may join with other manufacturers to share in the costs for each applicable group. Several research consortiums (groups of manufacturers) have been formed. The largest consortium, organized by the American Petroleum Institute (API), represents most of the manufacturers of baseline gasoline, baseline diesel fuel, baseline fuel additives, and the prominent nonbaseline oxygenated

additives for gasoline. The research is structured into three tiers of requirements for each group. Tier 1 requires an emissions characterization and a literature search for information on the health effects of those emissions. Voluminous Tier 1 data for gasoline and diesel fuel were submitted by API and others in 1997. Tier 1 data have been submitted for biodiesel, water/diesel emulsions, and several atypical additives. Tier 2 requires short-term inhalation exposures of laboratory animals to emissions to screen for adverse health effects. Tier 2 data have been submitted for baseline diesel, biodiesel, and water/diesel emulsions. Alternative Tier 2 testing can be required in lieu of standard Tier 2 testing if EPA concludes that such testing would be more appropriate. The EPA reached that conclusion with respect to gasoline and gasoline-oxygenate blends, and alternative requirements were established for the API consortium for baseline gasoline and six gasoline-oxygenate blends. Alternative Tier 2 requirements have also been established for the manganese additive MMT manufactured by the Afton Chemical Corporation (formerly the Ethyl Corporation). Tier 3 provides for follow-up research, at EPA's discretion, when remaining uncertainties as to the significance of observed health effects, welfare effects, and/or emissions exposures from a fuel or fuel/additive mixture interfere with EPA's ability to make reasonable estimates of the potential risks posed by emissions from a fuel or additive. To date, EPA has not imposed any Tier 3 requirements. Under Section 211 of the Clean Air Act, (1) submission of the health-effects information is necessary for a manufacturer to obtain registration of a motor-vehicle gasoline, diesel fuel, or fuel additive, and thus be allowed to introduce that product into commerce, and (2) the information shall not be considered confidential.

Burden Statement: The annual public reporting and recordkeeping burden for this collection of information is estimated to average 7,538 hours per response. Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements which have subsequently changed; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information.

The ICR provides a detailed explanation of the Agency's estimate, which is only briefly summarized here:

Estimated total number of potential respondents: 4.

Frequency of response: On occasion.

Estimated total average number of responses for each respondent: 1.

Estimated total annual burden hours: 30,150.

Estimated total annual costs: $3.2 million. This includes an estimated burden cost of $2.5 million and an estimated cost of $0.7 million for capital investment or maintenance and operational costs.

Are There Changes in the Estimates From the Last Approval?

There is a decrease of 30,550 hours in the total estimated annual respondent burden compared with that identified in the ICR currently approved by OMB. This decrease reflects EPA's updating of burden estimates. The two Alternative Tier 2 testing programs noted above, and covered in the previous ICR, have completed most of the testing requirements. They will have significantly reduced activity as the programs near completion over the next three years. Although there will likely be new fuels and additives for which testing will be required, such testing is not expected to be as extensive as the two programs noted above.

What Is the Next Step in the Process for This ICR?

EPA will consider the comments received and amend the ICR as appropriate. The final ICR package will then be submitted to OMB for review and approval pursuant to 5 CFR 1320.12. At that time, EPA will issue another **Federal Register** notice pursuant to 5 CFR 1320.5(a)(1)(iv) to announce the submission of the ICR to OMB and the opportunity to submit additional comments to OMB. If you have any questions about this ICR or the approval process, please contact the technical person listed under **FOR FURTHER INFORMATION CONTACT.**

Dated: July 11, 2006.

Margo Tsirigotis Oge,

Director, Office of Transportation and Air Quality.

[FR Doc. E6–11257 Filed 7–14–06; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–8198–3]

Science Advisory Board (SAB) Staff Office; Notification of an Upcoming Teleconference of the Air Quality Modeling Subcommittee of the EPA's Advisory Council on Clean Air Compliance Analysis

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: The EPA Science Advisory Board (SAB) Staff Office announces a public teleconference of the Air Quality Modeling Subcommittee (AQMS), a subcommittee of the EPA's Advisory Council on Clean Air Compliance Analysis (Council).

DATES: The public teleconference will be held on August 7, 2006, from 1 p.m. to 3 p.m. (eastern daylight time).

FOR FURTHER INFORMATION CONTACT: Members of the public who wish to obtain the call-in number and access code for the teleconference may contact Dr. Holly Stallworth, Designated Federal Officer (DFO), by mail at EPA SAB Staff Office (1400F), U.S. EPA, 1200 Pennsylvania Avenue, NW., Washington, DC 20460; by telephone at (202) 343–9867; or by e-mail at *stallworth.holly@epa.gov*. General information about the SAB may be found on the SAB Web site at *http://www.epa.gov/sab.*

SUPPLEMENTARY INFORMATION:

Background: The Advisory Council on Clean Air Compliance Analysis is a statutorily-mandated peer review group charged with providing advice, information and recommendations to the Agency on technical and economic aspects of studies prepared by EPA relating to the benefits and costs of the CAA and its Amendments. The Council is a Federal advisory committee chartered under the Federal Advisory Committee Act (FACA), as amended, 5 U.S.C., App. Pursuant to a requirement under section 812 of the 1990 Clean Air Act Amendments, EPA conducts periodic studies to assess the benefits and the costs of the Clean Air Act. The Council has been the chief reviewing body for these studies and has issued advice on a retrospective study issued in 1997, a prospective study issued in 1999, and, since 2003, analytic blueprints for a second prospective study on the costs and benefits of clean air programs covering the years 1990–2020. OAR's Web site on these section 812 studies may be found at: *http://www.epa.gov/oar/sect812/.*

The AQMS is one of three subcommittees of the Advisory Council on Clean Air Compliance Analysis. The AQMS is charged with providing expert advice on the Office of Air and Radiation's air quality modeling. Pursuant to the Federal Advisory Committee Act, Public Law 92–463, notice is hereby given that the Air Quality Modeling Subcommittee (AQMS) will hold a public teleconference to discuss a draft emissions inventory developed for the EPA Office of Air and Radiation's "Second Prospective Analysis: Benefits and Costs of the Clean Air Act 1990–2020." Meeting materials and a teleconference agenda will be posted on the SAB Web site provided above prior to the teleconference. The Panel will comply with the provisions of the Federal Advisory Committee Act (FACA) and all appropriate SAB procedural policies.

Procedures for Providing Public Input: Members of the public may submit relevant written or oral information for the AQMS to consider during the advisory process. *Oral Statements:* In general, individuals or groups requesting an oral presentation at a public teleconference will be limited to three minutes per speaker with no more than a total of fifteen minutes for all speakers. Interested parties should contact the DFO, contact information provided above, in writing via e-mail by July 31, 2006, in order to be placed on the public speaker list. *Written Statements:* Written statements should be received in the SAB Staff Office by July 31, 2006, so that the information may be made available to the Panel for their consideration. Written statements should be supplied to the DFO in the following formats: One hard copy with original signature, and one electronic copy via e-mail (acceptable file format: Adobe Acrobat, WordPerfect, Word, or Rich Text files (in IBM–PC/Windows 98/2000/XP format).

Meeting Accommodations: For information on access or services for people with disabilities, please contact the DFO, contact information provided above. To request accommodation of a disability please contact the DFO, preferably at least ten business days prior to the meeting, to give EPA as much time as possible to process your request.

Dated: July 11, 2006.

Anthony F. Maciorowski,

Associate Director for Science, EPA Science Advisory Board Staff Office.

[FR Doc. E6–11238 Filed 7–14–06; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–8198–6]

Science Advisory Board Staff Office; EPA Clean Air Scientific Advisory Committee (CASAC) CASAC Lead Review Panel; Notification of a Public Advisory Committee Meeting (Teleconference)

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: The Environmental Protection Agency (EPA or Agency) Science Advisory Board (SAB) Staff Office announces a public teleconference of the Clean Air Scientific Advisory Committee (CASAC) Lead Review Panel (CASAC Panel) to review the updated Executive Summary and Chapter 7 (Integrative Synthesis) of EPA's *Air Quality Criteria for Lead (Second External Review Draft), Volumes I and II* (EPA/600/R–05/144aB–bB, May 2006).

DATES: The teleconference meeting will be held on Tuesday, August 15, 2006, from 12 to 4 p.m. (Eastern Time).

FOR FURTHER INFORMATION CONTACT: Any member of the public who wishes to: Obtain the teleconference call-in number and access code; submit a written or brief oral statement (three minutes or less); or receive further information concerning this teleconference meeting, must contact Mr. Fred Butterfield, Designated Federal Officer (DFO), EPA Science Advisory Board (1400F), U.S. Environmental Protection Agency, 1200 Pennsylvania Avenue, NW., Washington, DC 20460; via telephone/voice mail: (202) 343–9994; fax: (202) 233–0643; or e-mail at: *butterfield.fred@epa.gov*. General information concerning the CASAC or the EPA SAB can be found on the EPA Web site at URL: *http://www.epa.gov/sab*.

SUPPLEMENTARY INFORMATION:

Background: The CASAC, which is comprised of seven members appointed by the EPA Administrator, was established under section 109(d)(2) of the Clean Air Act (CAA or Act) (42 U.S.C. 7409) as an independent scientific advisory committee, in part to provide advice, information and recommendations on the scientific and technical aspects of issues related to air quality criteria and NAAQS under sections 108 and 109 of the Act. The CASAC is a Federal advisory committee chartered under the Federal Advisory Committee Act (FACA), as amended, 5 U.S.C., App. The CASAC Lead Review Panel, which consists of the seven CASAC members supplemented by subject-matter-expert Panelists, provides EPA with advice and recommendations concerning lead in ambient air. The CASAC Panel complies with the provisions of FACA and all appropriate SAB Staff Office procedural policies.

EPA is in the process of updating, and revising where appropriate, the air quality criteria document (AQCD) for Lead. Section 109(d)(1) of the CAA requires that EPA carry out a periodic review and revision, as appropriate, of the air quality criteria and the national ambient air quality standards (NAAQS) for the six "criteria" air pollutants, including Lead. On December 1, 2005, EPA's National Center for Environmental Assessment National, Research Triangle Park (NCEA–RTP), within the Agency's Office of Research and Development (ORD), made available for public review and comment a first draft document, *Air Quality Criteria for Lead, Volumes I and II* (EPA/600/R–05/144aA–bA). This AQCD represented an update to the previous EPA document, *Air Quality Criteria for Lead*, EPA–600/8–83/028aF–dF (published in June 1986) and an associated supplement (EPA–600/8–89/049F) published in 1990. Under CAA sections 108 and 109, the purpose of the updated AQCD is to provide an assessment of the latest scientific information on the effects of ambient Lead on the public health and welfare, for use in EPA's current review of the NAAQS for Lead. Detailed summary information on this first draft AQCD for lead is contained in a previous EPA **Federal Register** notice (70 FR 72300, December 2, 2005).

The CASAC Panel met in a public meeting on February 28 and March 1, 2006 to conduct its initial peer review of the first draft Lead AQCD. The report from that meeting, dated April 26, 2006, is posted on the SAB Web site at: *http://www.epa.gov/sab/pdf/casac-06–005.pdf*. In May 2006, NCEA–RTP released a second draft Lead AQCD (EPA/600/R–05/144aB–bB) for public review and comment. The CASAC Panel met in a public meeting on June 28 and 29, 2006 to conduct a peer review of the second draft Lead AQCD. The CASAC's report from that meeting is still under development and will be posted on the SAB Web site at: *http://www.epa.gov/sab/fiscal06.htm* upon completion. At its June 2006 public meeting, the CASAC Panel requested an opportunity to provide additional review of the revised draft Executive Summary and Chapter 7 (Integrative Synthesis) of the AQCD. The purpose of this teleconference is for the CASAC Panel to conduct this review.

Availability of Meeting Materials: The *Air Quality Criteria for Lead (Second External Review Draft), Volumes I and II* (May 2005) can be accessed via the Agency's NCEA Web site at: *http://cfpub.epa.gov/ncea/cfm/recordisplay.cfm?deid=141779http://cfpub.epa.gov/ncea/cfm/recordisplay.cfm?deid=154041*. NCEA–RTP plans to post the revised draft Executive Summary and Chapter 7 (Integrative Synthesis) on the NCEA Web Site by August 1, 2006. Any questions concerning the second draft Lead AQCD should be directed to Dr. Lori White, NCEA–RTP, at phone: (919) 541–3146, or e-mail: *white.lori@epa.gov*. A copy of the draft agenda for the CASAC teleconference and other meeting materials will be posted on the SAB Web site prior to this meeting at: *http://www.epa.gov/sab/panels/casac_lead_review_panel.htm*.

Procedures for Providing Public Input: Interested members of the public may submit relevant written or oral information for the CASAC Lead Review Panel to consider during the advisory process. *Oral Statements:* In general, individuals or groups requesting an oral presentation at a public teleconference will be limited to three minutes per speaker, with no more than a total of 30 minutes for all speakers. Interested parties should contact Mr. Butterfield, CASAC DFO, in writing (preferably via e-mail), by August 8, 2006, at the contact information noted above, to be placed on the list of public speakers for this meeting. *Written Statements:* Written statements should be received in the SAB Staff Office by August 11, 2006, so that the information may be made available to the CASAC Panel for their consideration prior to this teleconference. Written statements should be supplied to the DFO in the following formats: one hard copy with original signature, and one electronic copy via e-mail (acceptable file format: Adobe Acrobat PDF, WordPerfect, MS Word, MS PowerPoint, or Rich Text files in IBM–PC/Windows 98/2000/XP format).

Accessibility: For information on access or services for individuals with disabilities, please contact Mr. Butterfield at the phone number or e-mail address noted above, preferably at least ten days prior to the meeting, to give EPA as much time as possible to process your request.

Dated: July 11, 2006.

Anthony F. Maciorowski,

Associate Director for Science, EPA Science Advisory Board Staff Office.

[FR Doc. E6–11247 Filed 7–14–06; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OW–2006–0021; FRL–8198–5]

National Management Measures To Control Nonpoint Source Pollution From Hydromodification

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of availability.

SUMMARY: EPA is requesting comment on draft technical guidance for managing nonpoint source pollution from hydromodification. The term hydromodification refers to an activity that alters the geometry and physical characteristics of a stream or river in such a way that the flow patterns change. This guidance is intended to provide technical assistance to states, territories, authorized tribes, and the public for managing hydromodification and reducing nonpoint source pollution of surface and ground water. The guidance provides background information about nonpoint source pollution from activities associated with channelization and channel modification, dams, and streambank and shoreline erosion. It discusses the broad concepts of assessing and addressing water quality problems on a watershed level, and it presents up-to-date technical information about how to reduce nonpoint source pollution from hydromodification. Implementation of the guidance will result in increased use of scientifically sound, cost-effective hydromodification management measures, and will support states in their efforts to implement their Nonpoint Source Control Programs.

DATES: Comments must be received on or before October 16, 2006.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–HQ–OW–2006–0021 by one of the following methods:

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

—E-mail: *OW-Docket@epa.gov*

—Mail: Office of Water Docket, Environmental Protection Agency, Mailcode: 4101T, 1200 Pennsylvania Avenue, NW., Washington, DC 20460

—Hand Delivery: Office of Water Docket, Environmental Protection Agency, Public Reading Room, Room B102, EPA West Building, 1301 Constitution Avenue, NW., Washington, DC. Such deliveries are only accepted during the Docket's normal hours of operation, and special arrangements should be made for deliveries of boxed information.

Instructions: Direct your comments to Docket ID No. EPA–HQ–OW–2006–0021. EPA's policy is that all comments received will be included in the public docket without change and may be made available online at *www.regulations.gov*, including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through *www.regulations.gov*. The *www.regulations.gov* Web site is an "anonymous access" system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through *www.regulations.gov* your e-mail address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD–ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses. For additional information about EPA's public docket visit the EPA Docket Center homepage at *http://www.epa.gov/epahome/dockets.htm*.

Docket: All documents in the docket are listed in the *www.regulations.gov* index. Although listed in the index, some information is not publicly available, *e.g.*, CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, will be publicly available only in hard copy. Publicly available docket materials are available either electronically in *www.regulations.gov* or in hard copy at the Office of Water Docket, Environmental Protection Agency, Public Reading Room, Room B102, EPA West Building, 1301 Constitution Avenue, 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 Office of Water Docket is (202) 566–2426.

The complete text of the draft guidance is available on EPA's Internet

site on the Nonpoint Source Control Branch's homepage at *http://www.epa.gov/owow/nps/pubs.html*. Copies of the complete draft guidance can also be obtained upon request.

FOR FURTHER INFORMATION CONTACT: Chris Solloway, Assessment and Watershed Protection Division, Office of Water, Mailcode: 4503T, Environmental Protection Agency, 1200 Pennsylvania Avenue, NW., Washington, DC 20460; telephone number (202) 566–1202; fax number (202) 566–1437; e-mail address: *Solloway.chris@epa.gov*.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Interested Entities

Entities potentially interested in today's notice are those that manage watersheds potentially affected by hydromodification. Categories and entities interested in today's notice include:

Category	Examples of interested entities
State/Local/Tribal Government	Water Quality Officials, Public Land Management Officials, Association of State and Interstate Water Pollution Control Administrators.
Federal Government	Army Corps of Engineers, Natural Resources Conservation Service (USDA), Forest Service (USDA), National Oceanic and Atmospheric Administration, Department of Transportation.
Non-government organizations	Resource Management Associations, Trade Group Associations, Professional Associations, Environmental Groups.

This table is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be interested in this notice. This table lists the types of entities that EPA is aware could potentially be interested in this notice. Other types of entities not listed in the table could also be interested.

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

1. *Submitting CBI.* Do not submit this information to EPA through *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:

- Identify the rulemaking by docket number and other identifying information (subject heading, **Federal Register** date and page number).
- 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.
- Explain why you agree or disagree; suggest alternatives and substitute language for your requested changes.
- Describe any assumptions and provide any technical information and/or data that you used.
- If you estimate potential costs or burdens, explain how you arrived at your estimate in sufficient detail to allow for it to be reproduced.
- Provide specific examples to illustrate your concerns, and suggest alternatives.
- Explain your views as clearly as possible, avoiding the use of profanity or personal threats.
- Make sure to submit your comments by the comment period deadline identified.

II. Background

In 1993, under the authority of section 6217(g) of the Coastal Zone Act Reauthorization Amendments, EPA issued Guidance Specifying Management Measures for Sources of Nonpoint Pollution in Coastal Waters. That guidance document details management measures appropriate for the control of five categories of nonpoint sources of pollution in the coastal zone: agriculture, forestry, urban areas, marinas and recreational boating, and hydromodification. The document also includes management measures for wetlands, riparian areas, and vegetated treatment systems because they are important to the abatement of nonpoint source pollution in coastal waters. States and territories were required to adopt measures "in conformity" with the coastal management measures guidance for their Coastal Nonpoint Pollution Control Programs.

State, territory, and tribal water quality assessments continue to identify nonpoint source pollution as a major cause of degradation in surveyed waters nationwide. In 1987, Congress enacted section 319 of the Clean Water Act to establish a national program to control nonpoint sources of water pollution. Under section 319, states, territories, and tribes address nonpoint source pollution by assessing the nonpoint source pollution problems within the state, territory, or tribal lands; identifying the sources of pollution; and implementing management programs to control the pollution. Section 319 also authorizes EPA to award grants to states, territories, and tribes to assist them in implementing management programs that EPA has approved. Program implementation includes nonregulatory and regulatory programs, technical assistance, financial assistance, education, training, technology transfer, and demonstration projects. In fiscal year 2005, Congress appropriated and EPA awarded approximately $207 million for state nonpoint source management program grants.

The 1993 management measures guidance focused on conditions of and examples from the coastal zone. The draft national management measures guidance is intended to expand the focus nationwide to provide technical guidance on effective measures for managing hydromodification for the abatement of nonpoint source pollution. Although the practices detailed in the 1993 coastal guidance apply generally to inland areas, EPA has recognized the utility of developing and publishing technical guidance that explicitly addresses nonpoint source pollution on a nationwide basis. Moreover, additional information and examples from research and experience to date with implementation of the management measures are available to enrich the national guidance. These changes have helped to prompt the revision and expansion of the hydromodification chapter of the 1993 guidance.

III. Scope of the Draft Hydromodification Guidance—Sources of Nonpoint Source Pollution Addressed

The draft technical guidance continues to focus on the major sources of pollution from hydromodification identified for the 1993 coastal guidance by EPA in consultation with a number of other Federal agencies and other leading national experts, including several experts from the U.S. Army Corps of Engineers. Specifically, the guidance identifies management measures for the following:

Channelization and Channel Modification

- Physical and Chemical Characteristics of Surface Water
- Instream and Riparian Habitat Restoration
- Dams
- Erosion and Sediment Control
- Chemical and Pollutant Control
- Protection of Surface Water Quality and Instream and Riparian Habitat
- Streambank and Shoreline Erosion
- Eroding Streambanks and Shorelines

IV. Approach Used To Develop Guidance

The draft management measures guidance is based in large part on the 1993 coastal guidance. The coastal guidance was developed using a workgroup approach to draw upon technical expertise within other Federal agencies as well as state water quality and coastal zone management agencies.

The 1993 text has been expanded to include information on the application and effectiveness of hydromodification BMPs from recent research, the cost of installing BMPs, watershed-scale and ecological impacts of hydromodification activities, and certification programs for personnel involved in construction and dam removal.

V. Request for Comments

EPA is soliciting comments on the draft guidance on nonpoint source management measures for hydromodification. The Agency is soliciting additional information and supporting data on the measures specified in this guidance and on additional measures that may be as effective or more effective in controlling nonpoint source pollution from hydromodification. EPA requests that commenters focus their comments on the technical soundness of the draft management measures guidance.

Dated: July 6, 2006.

Benjamin H. Grumbles,

Assistant Administrator, Office of Water.

[FR Doc. E6–11248 Filed 7–14–06; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[Docket # EPA–RO4–SFUND–2006–0595; FRL–8198–2]

Henry Wood Preserving Superfund Site; Hemingway, Williamsburg County, SC; Notice of Settlement

AGENCY: Environmental Protection Agency.

ACTION: Notice of settlement.

SUMMARY: Under section 122(h)(1) of the Comprehensive Environmental Response, Compensation and Liability Act (CERCLS), the United States Environmental Protection Agency has entered into a proposed settlement for the reimbursement of past response costs concerning the Henry Wood Preserving Superfund Site located in Hemingway, Willamsburg County, South Carolina.

DATES: The Agency will consider public comments on the settlements until August 16, 2006. The Agency will consider all comments received and may modify or withdraw its consent to the settlements if comments received disclose facts or considerations which indicate that the settlements are inappropriate, improper, or inadequate.

ADDRESSES: Copies of the settlement are available from Ms. Paula V. Batchelor. Submit your comments, identified by Docket ID No. EPA–RO4–SFUND–2006–0595 or Site name Henry Wood Preserving Superfund Site by one of the following methods:

- *http://www.regulations.gov:* Follow the on-line instructions for submitting comments.
- E-mail: *Batchelor.Paula@epa.gov.*
- Fax: 404/562–8842/Attn: Paula V. Batchelor.
- Mail: Ms. Paula V. Batchelor, U.S. EPA Region 4, WMD–SEIMB, 61 Forsyth Street, SW., Atlanta, Georgia 30303. "In addition, please mail a copy of your comments on the information collection provisions to the Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), Attn: Desk Officer for EPA, 725 17th St. NW., Washington, DC 20503." *Instructions:* Direct your comments to Docket ID No. EPA–RO4–SFUND–2006–0595. EPA's policy is that all comments received will be included in the public docket without change and may be made available online at *http://www.regulations.gov,* including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through *http://www.regulations.gov* or e-mail. The *http://www.regulations.gov* Web site is an "anonymous access" system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through *http://www.regulations.gov* your e-mail address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD–ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses. For additional information about EPA's public docket visit the EPA Docket Center homepage at *http://www.epa.gov/epahome/dockets.htm.*

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 U.S. EPA Region 4 office located at 61 Forsyth Street, SW., Atlanta, Georgia 30303. Regional office is open from 7 a.m. until 6:30 p.m. Monday through Friday, excluding legal holidays.

Written comments may be submitted to Ms. Batchelor within 30 calendar days of the date of this publication.

FOR FURTHER INFORMATION CONTACT: Paula V. Batchelor at 404/562–8887

Dated: June 29, 2006.

De'Lyntoneus Moore,

Acting Chief, Superfund Enforcement & Information Management Branch, Waste Management Division.

[FR Doc. E6–11237 Filed 7–14–06; 8:45 am]

BILLING CODE 6560–50–P

COUNCIL ON ENVIRONMENTAL QUALITY

Environmental Management Systems and the National Environmental Policy Act

AGENCY: Council on Environmental Quality.

ACTION: Notice and Request for Comments.

SUMMARY: The Council on Environmental Quality (CEQ) used an interagency work group to develop a guide to Federal agencies in aligning their Environmental Management Systems (EMS) with the National Environmental Policy Act (NEPA). CEQ invites comments on the proposed guide before publishing and distributing a final guide. The proposed guide, "Aligning the Complementary Processes of Environmental Management Systems and the National Environmental Policy Act", is available at *www.nepa.gov* in the Current Developments section.

DATES: Written comments should be submitted on or before September 1, 2006.

ADDRESSES: Hardcopies of the proposed guide can be requested from CEQ. Electronic or facsimile requests for a copy of the proposed guide and comments on the proposed guide are preferred because federal offices experience intermittent mail delays from security screening. Electronic requests and written comments can be sent to NEPA modernization (EMS–NEPA) at *horst_greczmiel@ceq.eop.gov*. Written requests and comments may be faxed to NEPA Modernization (EMS–NEPA) at (202) 456–0753. Written requests and comments may also be submitted to NEPA Modernization (EMS–NEPA), Attn: Associate Director for NEPA Oversight, 722 Jackson Place NW, Washington DC 20503.

FOR FURTHER INFORMATION CONTACT: Horst Greczmiel at (202) 395–5750.

SUPPLEMENTARY INFORMATION: The Council on Environmental Quality (CEQ) established a National Environmental Policy Act (NEPA) Task Force and is now implementing recommendations designed to modernize the implementation of NEPA and make the NEPA process more effective and efficient. Additional information is available on the task force Web site at *http://ceq.eh.doe.gov/ntf*.

A guide, "Aligning the Complementary Processes of Environmental Management Systems and the National Environmental Policy Act", was developed to assist agencies with linking the NEPA process with Environmental Management Systems (EMS) and CEQ requests public input and comments on the proposed guide available at *www.NEPA.gov* and from CEQ (*see* **ADDRESSES**).

The guide will be provided to all Federal agencies to help Federal agencies recognize the complementary relationship of EMS and NEPA and to assist them in aligning EMS elements with the NEPA statement of policy in Section 101 and the analysis and decision processes of Section 102 and incorporating the EMS approach into the NEPA process when establishing, implementing, and maintaining their EMS. CEQ recognizes the benefits of aligning these complementary processes and encourages Federal agencies to do so where appropriate.

The guide states that it is conceivable that a well constructed EMS can include all the elements of the NEPA process and serve as the basis for complying with NEPA requirements. CEQ specifically solicits public comment on this idea.

The guide encourages the integration of EMS and NEPA as a means to bring substantial benefits to an agency's environmental performance and to further our national environmental policy. For example:

> Commitments and mitigation measures established in NEPA decision documents (*e.g.*, Findings of No Significant Impact and Records of Decision) can be implemented, tracked and monitored through the EMS because the EMS provides a framework to improve environmental performance in ongoing day-to-day operations. The implementation, tracking and monitoring of commitments and mitigation measures can assist in training, internal auditing, identification of appropriate corrective actions and communication with interested parties.
>
> A major component of the NEPA process is communicating and involving the interested public. An EMS can provide numerous opportunities for communicating with the public and serve a major role in providing information about the proposal under consideration and thereby help focus the public involvement.

The guide also describes specific ways EMS and NEPA processes can complement one another to improve how Federal agencies manage their impacts on the environment:

- The NEPA process generally approaches environmental management decisions on a case-by-case basis, and mainly focuses on identifying and mitigating "significant" environmental impacts. An EMS addresses the full range of ongoing activities (and products and services) the agency has decided to implement with the intent to continually improve environmental performance by minimizing the adverse effects of its environmental aspects.
- The identification of environmental aspects in the development of an EMS can build on the environmental aspects identified in a previous NEPA analysis of a facility, activity, program or policy. Conversely, a new NEPA analysis can consider the identified environmental aspects in an EMS when assessing potential environmental impacts of a proposed action. The EMS can provide a platform for using the information collected and analyses performed in the NEPA process on a going forward basis in the actual implementation of proposed actions.
- The performance measurements and monitoring conducted as part of an EMS may provide comparable and verifiable data to improve environmental impact predictions in an environmental assessment (EA) or environmental impact statement (EIS).
- An EMS provides a systematic framework for an agency to monitor and continually improve its environmental performance. Agencies with an EMS may be able to use data generated through their EMS to establish a record of environmental performance to support, for example (a) identifying categories of actions that normally require an EIS, (b) finding no significant impact when incorporated into an EA, which would preclude the need to prepare an EIS, or (c) establishing a categorical exclusion under NEPA which would reduce the need to prepare EAs. Further, where an EIS is needed, the EMS approach of keeping environmental data up-to-date should facilitate the preparation of an EIS.
- Where an EMS has established environmental objectives and targets relevant to resource areas subject to NEPA mitigation measures, the EMS can ensure implementation and performance of mitigation measures through applicable measurement and monitoring programs.
- An EMS can support the implementation of a NEPA "adaptive management" approach when there are uncertainties in the prediction of the impacts or outcome of project implementation, or the effectiveness of proposed mitigation. The adaptive management approach can provide

managers with the flexibility to make necessary corrections or adjustments in project implementation, possible without needing new or supplemental NEPA analyses.

Public comments are requested on or before September 1, 2006.

Dated: July 12, 2006.

James L. Connaughton,

Chairman, Council on Environmental Quality.

[FR Doc. 06–6251 Filed 7–14–06; 8:45 am]

BILLING CODE 3125–01–M

FEDERAL RESERVE SYSTEM

Formations of, Acquisitions by, and Mergers of Bank Holding Companies

The companies listed in this notice have applied to the Board for approval, pursuant to the Bank Holding Company Act of 1956 (12 U.S.C. 1841 *et seq.*) (BHC Act), Regulation Y (12 CFR Part 225), and all other applicable statutes and regulations to become a bank holding company and/or to acquire the assets or the ownership of, control of, or the power to vote shares of a bank or bank holding company and all of the banks and nonbanking companies owned by the bank holding company, including the companies listed below.

The applications listed below, as well as other related filings required by the Board, are available for immediate inspection at the Federal Reserve Bank indicated. The application also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the standards enumerated in the BHC Act (12 U.S.C. 1842(c)). If the proposal also involves the acquisition of a nonbanking company, the review also includes whether the acquisition of the nonbanking company complies with the standards in section 4 of the BHC Act (12 U.S.C. 1843). Unless otherwise noted, nonbanking activities will be conducted throughout the United States. Additional information on all bank holding companies may be obtained from the National Information Center website at *www.ffiec.gov/nic/*.

Unless otherwise noted, comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than August 11, 2006.

A. Federal Reserve Bank of Atlanta (Andre Anderson, Vice President) 1000 Peachtree Street, N.E., Atlanta, Georgia 30309:

1. Florida Gulf Bancorp, Inc., Fort Myers, Florida; to become a bank holding company by acquiring 100 percent of the voting shares of Florida Gulf Bank, Fort Myers, Florida.

B. Federal Reserve Bank of Kansas City (Donna J. Ward, Assistant Vice President) 925 Grand Avenue, Kansas City, Missouri 64198-0001:

1. TriCentury Corporation, Overland Park, Kansas; to become a bank holding company by acquiring 100 percent of the voting shares of Nine Tribes Bancshares, Inc., and The Bank of Quapaw, Quapaw, Oklahoma.

Board of Governors of the Federal Reserve System, July 12, 2006.

Robert deV. Frierson,

Deputy Secretary of the Board.

[FR Doc. E6–11223 Filed 7–14–06; 8:45 am]

BILLING CODE 6210–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of the National Coordinator for Health Information Technology; American Health Information Community Consumer Empowerment Workgroup Meeting

ACTION: Announcement of meeting

SUMMARY: This notice announces the seventh meeting of the American Health Information Community ("Community") Consumer Empowerment Workgroup in accordance with the Federal Advisory Committee Act (Pub. L. 92–463, 5 U.S.C., App.).

DATES: July 27, 2006 from 9 a.m. to 5 p.m.

Place: Hubert H. Humphrey building (200 Independence Avenue, SW., Washington, DC 20201), Conference Room 800 (you will need a photo ID to enter a Federal building).

Status: Open.

Purpose: at this meeting, the Community Consumer Empowerment Workgroup will receive information on personal health records and related matters.

The meeting will be conducted in hearing format, in which the Workgroup will gather information about personal health records' (PHRs) functions, features, current usage, interoperability capabilities, and importance to health care. The Workgroup will invite representatives who can provide information about these matters. The format for the meeting will include multiple invited panels and time for questions and discussion. The meeting will include a time period during which members of the public may deliver brief (3 minutes or less) oral public comment. To be included on the public comment portion of the agenda, please contact Vernette Roberts at (202) 205–8550, by e-mail at *Venette.Roberts@hhs.gov* or postal address at the Office of the National Coordinator (ONC), 330 C Street, SW., Suite 4090, Washington, DC 20201.

SUPPLEMENTARY INFORMATION: Public input, in the form of written testimony, is sought on the following issues:

- What is needed to increase consumer awareness and engagement in Personal Health Records (PHRs)?
- What are the most valuable features and functions of a PHR from the patient perspective? Please summarize the real world experience or evidence to support this part of the testimony.
- Would a minimum set of PHR elements ensure that consumers have the features and options most important to them when choosing a PHR?
- Who should identify the most important elements of a PHR?
- If applicable to your testimony, please comment on how health and HIT literacy needs should be addressed through PHRs.
- How can interoperability be achieved between PHRs and electronic health records (EHRs)? Please also comment on when this could be accomplished.
- How can interoperability be achieved between PHRs and all of the providers from whom the patient receives health care services? Please also comment on when this could be accomplished.
- Should the market be left alone for innovation or could vendors compete around a minimum criteria set for PHRs?
- If you think certification is necessary for privacy and security, interoperability or a minimum set of functionality, is the timing important and is there a sense of urgency given the diversity, complexity and mobility of today's population and the demand for availability of PHRs at the point of care?

Persons wishing to submit written testimony only (which should not exceed five double-spaced typewritten pages) should endeavor to submit it by July 27, 2006. Unfilled slots for oral testimony will be filled on the day of the meeting as time permits. Please consult Ms. Roberts for further information about these arrangements.

Further information about the Community's Consumer Empowerment Workgroup may be found at: *http://www.hhs.gov/healthit/ahic/ce_main.html*.

If you have special needs for the meeting, please contact (202) 690–7151.

The meeting will be available via Web cast at *http://www.eventcenterlive.com/cfmx/ec/login/login1.cfm?BID=67.*

Dated: July 11, 2006.

Judith Sparrow,

Director, American Health Infarmatian Community, Office af Pragrams and Caardinatian, Office af the Natianal Caardinatar for Health Infarmation Technalagy.

[FR Doc. 06–6257 Filed 7–14–06; 8:45 am]

BILLING CODE 4150–24–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Committee on Vital and Health Statistics: Meeting

Pursuant to the Federal Advisory Committee Act, the Department of Health and Human Services (HHS) announces the following advisory committee meeting.

Name: National Committee on Vital and Health Statistics (NCVHS) Executive Subcommittee.

Time and Date: July 25, 2006, 9 a.m.–4:30 p.m.

Place: Hamilton Crowne Plaza Hotel, 1001 14th Street, NW., Washington, DC 20005.

Status: Open.

Purpose: The Executive Subcommittee will review issues from the Full Committee Retreat and strategize next steps for the Committee

For Further Information Contact: Substantive program information as well as summaries of meetings and a roster of Committee members may be obtained from Marjorie S. Greenberg, Executive Secretary, NCVHS, National Center for Health Statistics, Centers for Disease Control and Prevention, 3311 Toledo Road, Room 2402, Hyattsville, Maryland 20782, telephone (301) 458–4245. Information also is available on the NCVHS home page of the HHS Web site: *http://www.ncvhs.hhs.gov/*, where further information including an agenda will be posted when available.

Should you require reasonable accommodation, please contact the CDC Office of Equal Employment Opportunity on (301) 458–4EEO (4336) as soon as possible.

Dated: July 10, 2006.

James Scanlon,

Deputy Assistant Secretary for Science and Data Palicy, Office af the Assistant Secretary far Planning and Evaluatian.

[FR Doc. 06–6255 Filed 7–14–06; 8:45 am]

BILLING CODE 4151–05–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Committee on Vital and Health Statistics: Meeting

Pursuant to the Federal Advisory Committee Act, the Department of Health and Human Services (HHS) announces the following advisory committee meeting.

Name: National Committee on Vital and Health Statistics (NCVHS), Ad Hoc Workgroup on the Nationwide Health Information Network (NHIN).

Time and Date: July 26, 2006—8:30 a.m.–5 p.m.

Place: Hubert H. Humphrey Building, 200 Independence Avenue, SW., Room 325, Washington, DC 20201.

Status: Open.

Purpose: The Workgroup will hear public testimony related to functional requirements for a nationwide health information network and to discuss next steps in preparing a preliminary, minimal but inclusive set of functional requirements.

For Further Information Contact: Substantive program information as well as summaries of meetings and a roster of committee members may be obtained from Mary Jo Deering, Ph.D., Lead Staff Person for the NCVHS Workgroup on the National Health Information Infrastructure, NCI Center for Strategic Dissemination and NCI Center for Bioinformatics, National Cancer Institute, National Institutes of Health, 6116 Executive Boulevard—Room 4087, Rockville, MD, 20852, telephone (301) 594–8193, or Marjorie S. Greenberg, Executive Secretary, NCVHS, National Center for Health Statistics, Centers for Disease Control and Prevention, 3311 Toledo Road, Room 2402, Hyattsville, Maryland 20782, telephone (301) 458–4245. Information also is available on the NCVHS home page of the HHS Web site: *http://www.ncvhs.hhs.gov/*, where an agenda for the meeting will be posted when available.

Should you require reasonable accommodation, please contact the CDC Office of Equal Employment Opportunity on (301) 458–4EEO (4336) as soon as possible.

Dated: July 10, 2006.

James Scanlon,

Deputy Assistant Secretary for Science and Data Palicy, Office af the Assistant Secretary far Planning and Evaluatian.

[FR Doc. 06–6256 Filed 7–14–06; 8:45 am]

BILLING CODE 4151–04–M

ADVISORY COUNCIL ON HISTORIC PRESERVATION

Draft Advisory Council on Historic Preservation Policy Statement on Affordable Housing and Historic Preservation

AGENCY: Advisory Council on Historic Preservation.

ACTION: Notice of Intent to Issue Policy Statement on Affordable Housing and Historic Preservation.

SUMMARY: The Advisory Council on Historic Preservation (ACHP) is revisiting its "Policy Statement on Affordable Housing and Historic Preservation," adopted in 1995 (1995 Policy). A Task Force composed of ACHP members has drafted a revised policy, and invites your views and comments. The Task Force will use your comments to finalize the draft policy before presenting it to the full ACHP membership for consideration and possible adoption.

DATES: Submit comments on or before August 16, 2006.

ADDRESSES: Address all comments concerning this proposed program comment to Don Klima, Director, Office of Federal Agency Programs, Advisory Council on Historic Preservation, 1100 Pennsylvania Avenue, NW., Suite 809, Washington, DC 20004. Fax 202–606–8672. You may submit electronic comments to *affordablehousing@achp.gov.*

FOR FURTHER INFORMATION CONTACT: Don Klima, (202) 606–8505.

SUPPLEMENTARY INFORMATION: The Advisory Council on Historic Preservation (ACHP) is an independent Federal agency, created by the National Historic Preservation Act, that promotes the preservation, enhancement, and productive use of our Nation's historic resources, and advises the President and Congress on national historic preservation policy.

Section 106 of the National Historic Preservation Act (Section 106), 16 U.S.C. 470f, requires Federal agencies to consider the effects of their undertakings on historic properties and provide the ACHP a reasonable opportunity to comment with regard to such undertakings. ACHP has issued the regulations that set forth the process through which Federal agencies comply with these duties. Those regulations are codified under 36 CFR part 800.

I. Background on the Draft Policy Statement

In 1995, the ACHP adopted the "Policy Statement on Affordable

Housing and Historic Preservation" (1995 Policy) to serve as a guide for Federal agencies and State Historic Preservation Offices (SHPOs) when making decisions about affordable housing projects during review of Federal undertakings under Section 106 and its implementing regulations. The ACHP adopted the policy to guide Federal agencies and SHPOs at a time when conflicts between the dual goals of providing affordable housing and preserving historic properties was making the achievement of either more difficult. A decade later, the provision of affordable housing was developed into an even more pressing national concern, prompting a reconsideration of the principles in the 1995 Policy.

In 2005, the ACHP Chairman convened an Affordable Housing Task Force to revisit the 1995 Policy in light of changes to the Section 106 regulations since 1999 and other ACHP initiatives. Members of the Task Force include the U.S. Department of Agriculture, U.S. Department of the Interior, the National Conference of State Historic Preservation Officers (NCSHPO), the National Trust for Historic Preservation, and citizen members, Emily Summers, and Jack Williams, Chair. The U.S. Department of Housing and Urban Development participates in the Task Force as an ACHP observer.

The Task Force began meeting in April 2005 to consider to what extent the 1995 Policy had been implemented and whether the 1995 Policy had improved the effectiveness and efficiency of historic preservation reviews for affordable housing projects. The Task Force conducted an online survey of stakeholders in August-September 2005 to solicit the views of housing providers, local governments, and the historic preservation community regarding the significance of the 1995 Policy and its practical application in the field. The goal of the survey was to assess whether the 1995 Policy had made an appreciable difference in the planning, outcomes, and implementation schedule for completing affordable housing projects that affected historic properties.

The ACHP posted the survey online, and individual task force members with connections to various constituencies sent e-mail notices and invitations to a broad distribution of Section 106 participants and housing providers. During the 30 days that the survey was posted on the ACHP Web site, nearly 350 individuals responded to the invitation to comment.

After conducting additional research efforts, the Task Force concluded in November 2005 that revision of the 1995 Policy is necessary to achieve the goals of promoting historic preservation through the creation of affordable housing. Further, it was agreed that there were still opportunities to make the Section 106 review process more effective and efficient for these types of undertakings.

The Task Force has drafted a revised Policy Statement on Affordable Housing and Historic Preservation (text at the end of this notice). The ACHP invites the comments of the public on the draft policy statement, particularly as it relates to the following questions:

—How can the approaches outlined in the draft policy statement be used to address your concerns about combining and balancing the goals of historic preservation and the provision of affordable housing?

—How will the principles outlined in the draft policy statement foster and provide a framework for consultation in affordable housing undertakings?

—How will the draft policy statement assist Federal agencies, local governments, developers, and other housing providers in planning and designing affordable housing projects to preserve and reuse historic properties and to revitalize distressed neighborhoods?

—What form of guidance would be most useful to you in the implementation of the principles outlined in this draft policy statement?

—What major obstacles to providing affordable housing with or near historic properties are not addressed in the draft policy statement?

If you have specific experiences in using the 1995 Policy in the planning and implementation of affordable housing projects that you believe will inform the revision of the Policy Statement, we encourage you to share this information in your comments.

II. Text of the Draft Policy

The following is the text of the draft policy:

Advisory Council on Historic Preservation (ACHP) Policy Statement on Affordable Housing and Historic Preservation

Historic buildings provide affordable housing to many American families. Affordable housing rehabilitation can contribute to the ongoing vitality of historic neighborhoods as well as of the businesses and institutions that serve them. Rehabilitation can be an important historic preservation strategy. Federal agencies that help America meet its need for safe, decent, and affordable housing, most notably the U.S. Department of Housing Development (HUD) and the U.S. Department of Agriculture's (USDA's) Rural Development agency, often work with or near historic properties.

The ACHP considers affordable housing for the purposes of this policy to be Federally-subsidized, single- and multi-family housing for individuals and families that make less than 80% of the area median income. It includes, but is not limited to, Federal assistance for new construction, rehabilitation, mortgage insurance, and loan guarantees.

National policy encompasses both preserving historic resources and providing affordable housing. The National Historic Preservation Act (NHPA) of 1966, as amended, directs the Federal government to foster conditions under which modern society and prehistoric and historic resources can exist in productive harmony and "fulfill the social, economic, and other requirements of present and future generations." Similarly, affordable housing legislation like the Cranston-Gonzalez Act of 1990, which aims to "expand the supply of decent, safe, sanitary, and affordable housing," anticipates historic preservation as a tool for meeting its goals. Actively seeking ways to reconcile historic preservation goals with the special economic and social needs associated with affordable housing is critical in addressing one of the nation's most pressing challenges.

Providing affordable housing is a growing national need that continues to challenge housing providers and preservationists.

In issuing this policy statement, the ACHP, consistent with Section 202 of the NHPA, offers a flexible approach for affordable housing projects involving historic properties. Section 106 of the National Historic Preservation Act (Section 106) requires Federal agencies to take into account the effect of their actions on historic properties and afford the ACHP a reasonable opportunity to comment. This policy provides a framework for meeting these requirements for affordable housing.

Federal tax incentives provide opportunities for historic preservation and affordable housing to work together, including the Low-Income Building Tax Credit and the Historic Rehabilitation Tax Credit. Projects taking advantage of the Historic Rehabilitation Tax Credit must be reviewed by the National Park Service (NPS) for adherence to the *Secretary of the Interior's Standards for Rehabilitation and Guidelines for Rehabilitating Historic Buildings*

(Secretary's Standards) in a separate and distinct process. Review of thee projects is more comprehensive than Section 106 review and necessitates early coordination with NPS and the State Historic Preservation Officer (SHPO) since work must adhere to the Secretary's Standards to obtain the tax credit. Nonetheless, coordination with Section 106 consultation and these reviews frequently occurs.

In an effort to better focus Section 106 reviews for affordable housing, the ACHP encourages Federal and State agencies, SHPOs, Tribal Historic Preservation Officers (THPOs), local governments, housing providers, and other consulting parties to use the following principles in Section 106 consultation.

Implementation Principles

I. Rehabilitating historic properties to provide affordable housing is a sound historic preservation strategy.

II. Federal agencies and State and local government entities assuming HUD's environmental review requirements are responsible for ensuring compliance with Section 106.

III. Review of effects in historic districts should focus on exterior features.

IV. Consultation should consider the overall preservation goals of the community.

V. Plans and specifications should adhere to the Secretary's Standards when possible and practical.

VI. Section 106 consultation should emphasize consensus building.

VII. The ACHP encourages streamlining the Section 106 process to respond to local conditions.

VIII. The need for archeological investigations should be avoided.

I. Rehabilitating historic properties to provide affordable housing is a sound historic preservation strategy. Continued investment in historic buildings through rehabilitation and repair for affordable housing purposes and stabilization of historic districts through the construction of infill housing should be recognized as contributing to the broad historic preservation goals of neighborhood revitalization and retention.

II. Federal agencies and State and local government entities assuming HUD's environmental review requirements are responsible for ensuring compliance with Section 106. Federal agencies, notably USDA Rural Development and HUD, provide important funding for affordable housing. These Federal agencies, and funding recipients assuming HUD's environmental review requirements, must comply with Section 106. SHPOs, THPOs, and local historic preservation commissions provide expert opinions and advice during consultation. Consultation should be concluded and outcomes recorded prior to the expenditure of funds.

III. Review of effects in historic districts should focus on exterior features. Section 106 review of effects focuses on the characteristics that qualify a property for listing in the National Register of Historic Places, The significance of historic districts is typically associated with exterior features. Accordingly, unless a building is listed or considered eligible for listing in the National Register as an individual property or specific interior elements contribute to maintaining a district's character, review under Section 106 should focus on proposed changes to the exterior. In all cases, identifying the features that qualify a property for inclusion in the National Register defines the scope of Section 106 review.

IV. Consultation should consider the overall preservation goals of the community. When assessing, and negotiating the resolution of, the effects of affordable housing projects on historic properties, consultation should focus not simply on individual buildings but on the historic preservation goals of the broader neighborhood or community. If the affected historic property is a historic district, the agency official should assess effects on the historic district as a whole. Proposals to demolish historic properties for new replacement housing should be based on background documentation that addresses the broader context of the historic district and evaluates the economic and structural feasibility of rehabilitation that advances affordable housing.

V. Plans and specifications should adhere to the Secretary's Standards when possible and practical. The Secretary's Standards outline a consistent national approach to the treatment of historic properties that can be applied flexibly in a way that relates to local character and needs. Plans and specifications for rehabilitation, new construction, and abatement of hazardous conditions in affordable housing projects associated with historic properties should adhere to the recommended approaches in the Secretary's Standards when possible and practical. The ACHP recognizes that there are instances when the Secretary's Standards cannot be followed and that Section 106 allows for the negotiation of other outcomes.

VI. Section 106 consultation should emphasize consensus building. Section 106 review strives to build consensus with affected communities in all phases of the process. Consultation with affected communities should be on a scale appropriate to that of the undertaking. Various stakeholders, including community members and neighborhood residents, should be included in the Section 106 review process as consulting parties so that the full range of issues can be addressed in developing a balance between historic preservation and affordable housing goals.

VII. The ACHP encourages streamlining the Section 106 process to respond to local conditions. The ACHP encourages participants to seek innovative and practical ways to streamline the Section 106 process that respond to unique local conditions related to the delivery of affordable housing. Programmatic Agreements often delegate the Section 106 review role of the SHPO to local governments, particularly where local preservation ordinances exist and/or where qualified preservation professionals are employed to improve the efficiency of historic preservation reviews. Such agreements may also target the Section 106 review process to local circumstances that warrant the creation of exempt categories for routine activities, the adoption of "treatment and design protocol" for rehabilitation and new infill construction, and the development of design guidelines tailored to a specific historic district and/or neighborhood.

VIII. The need for archeological investigations should be avoided. Archeological investigations should not be required for affordable housing projects limited to rehabilitation and requiring minimal ground disturbance.

Authority: 16 U.S.C. 470j.

Dated: July 12, 2006.

Don Klima,

Acting Executive Director.

[FR Doc. 06–6254 Filed 7–14–06; 8:45 am]

BILLING CODE 4310–K6–M

DEPARTMENT OF HOMELAND SECURITY

[Docket No. USCBP–2006–0086]

Notice of Meeting of The Departmental Advisory Committee on Commercial Operations of Customs and Border Protection and Related Homeland Security Functions (COAC)

AGENCY: U.S. Customs and Border Protection, Department of Homeland Security (DHS).

ACTION: Notice of meeting.

SUMMARY: The Departmental Advisory Committee on Commercial Operations of U.S. Customs and Border Protection

and Related Homeland Security Functions (COAC) (formerly known as the "Commercial Operations Advisory Committee" or "COAC") will meet in open session.

DATES: Thursday, August 3, 2006, 9 a.m. to 1 p.m.

ADDRESSES: The meeting will be held in the Horizon Ballroom of the Ronald Reagan Building, 1300 Pennsylvania Avenue, NW., Washington, DC. If you desire to submit comments, they must be submitted by July 27, 2006.

Comments must be identified by USCBP–2006–0086 and may be submitted by *one* of the following methods:

- Federal eRulemaking Portal: *http://www.regulations.gov*. Follow the instructions for submitting comments.
- E-mail: *traderelations@dhs.gov*. Include docket number in the subject line of the message.
- Mail: Ms. Wanda Tate, Office of Trade Relations, U.S. Customs and Border Protection, Department of Homeland Security, Washington, DC 20229.
- Facsimile: 202–344–1969.

Instructions: All submissions received must include the words "Department of Homeland Security" and the docket number for this action. Comments received will be posted without alteration at *http://www.regulations.gov*, including any personal information provided.

Docket: For access to the docket to read background documents or comments received by the COAC, go to *http://www.regulations.gov*.

FOR FURTHER INFORMATION CONTACT: Ms. Wanda Tate, Office of Trade Relations, Customs and Border Protection, Department of Homeland Security, Washington, DC 20229, telephone 202–344–1440; facsimile 202–344–1969.

SUPPLEMENTARY INFORMATION: The Departmental Advisory Committee on Commercial Operations of U.S. Customs and Border Protection and Related Homeland Security Functions (formerly known as the "Commercial Operations Advisory Committee" or "COAC")[1] is tasked with providing advice to the Secretary of Homeland Security, the Secretary of the Treasury and the Commissioner of Customs and Border Protection (CBP) on matters pertaining to the commercial operations of CBP and related functions within DHS or the Department of the Treasury.

The seventh meeting of the ninth term of COAC will be held at the date, time and location specified above. A tentative agenda for the meeting is set forth below.

The meeting is open to the public.[2] However, participation in COAC deliberations is limited to COAC members, Homeland Security and Treasury Department officials, and persons invited to attend the meeting for special presentations. Since seating is limited, all persons attending this meeting should provide notice, preferably by close of business Thursday, July 27, 2006, to Ms. Wanda Tate, Office of Trade Relations, U.S. Customs and Border Protection, Department of Homeland Security, Washington, DC 20229, telephone 202–344–1440; facsimile 202–344–1969.

For information on facilities or services for individuals with disabilities or to request special assistance at the meeting, contact Ms. Wanda Tate as soon as possible.

Tentative Agenda

1. Introductory Remarks.
2. Transportation Security Administration—(User's Guide on Security Seals for Domestic Cargo).
3. Advance Data Requirements.
4. CBP Strategic Plan.
5. Update on (HSPD–13/NMSAC) Homeland Security Presidential Directive–13 & National Maritime Security Advisory Committee.
6. Trade Enforcement Initiatives.
7. WCO (World Customs Organization) Framework.
8. C–TPAT (Customs-Trade Partnership Against Terrorism).

Dated: July 11, 2006.

W. Ralph Basham,

Commissioner, U.S. Customs and Border Protection, United States Department of Homeland Security.

[FR Doc. E6–11328 Filed 7–14–06; 8:45 am]

BILLING CODE 9111–14–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

[USCG–2006–25280]

Collection of Information Under Review by Office of Management and Budget: OMB Control Numbers 1625–0052, 1625–0057, and 1625–0065

AGENCY: Coast Guard, DHS.

ACTION: Request for comments.

SUMMARY: In compliance with the Paperwork Reduction Act of 1995, the U.S. Coast Guard intends to submit Information Collection Requests (ICRs) to the Office of Management and Budget (OMB) to request an extension of their approval of the following collections of information: (1) 1625–0052, Nondestructive Testing of Certain Cargo Tanks on Unmanned Barges; (2) 1625–0057, Small Passenger Vessels—Title 46 CFR Subchapters K and T, and the revision of collection (3) 1625–0065, Offshore Supply Vessels—Title 46 CFR Subchapter L. Before submitting these ICRs to OMB, the Coast Guard is inviting comments on them as described below.

DATES: Comments must reach the Coast Guard on or before September 15, 2006.

ADDRESSES: To make sure that your comments and related material do not enter the docket [USCG–2006–25280] more than once, please submit them by only one of the following means:

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

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

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

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

The Docket Management Facility maintains the public docket for this notice. Comments and material received from the public, as well as documents mentioned in this notice as being available in the docket, will become part of this docket and will be available for inspection or copying at room PL–401 on the Plaza level of the Nassif Building, 400 Seventh Street, SW., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. You may also find this docket on the Internet at *http://dms.dot.gov*.

Copies of the complete ICRs are available through this docket on the Internet at *http://dms.dot.gov*, and also from Commandant (CG–611), U.S. Coast Guard Headquarters, room 6106 (Attn: Ms. Barbara Davis), 2100 2nd Street, SW., Washington, DC 20593–0001. The telephone number is 202–475–3523.

FOR FURTHER INFORMATION CONTACT: Ms. Barbara Davis, Office of Information Management, telephone 202–475–3523, or fax 202–475–3929, for questions on these documents; or telephone Ms. Renee V. Wright, Program Manager,

[1] Please note that CBP will continue to use "COAC" as the acronym for this Advisory Committee.

[2] Upon entry into the Ronald Reagan Building, a photo identification must be presented to the security guards.

Docket Operations, 202–493–0402, for questions on the docket.

SUPPLEMENTARY INFORMATION:

Public Participation and Request for Comments

We encourage you to respond to this request for comments by submitting comments and related materials. We will post all comments received, without change, to *http://dms.dot.gov*; they will include any personal information you have provided. We have an agreement with DOT to use the Docket Management Facility. Please see the paragraph on DOT's "Privacy Act Policy" below.

Submitting comments: If you submit a comment, please include your name and address, identify the docket number [USCG–2006–25280], indicate the specific section of the document to which each comment applies, and give the reason for each comment. You may submit your comments and material by electronic means, mail, fax, or delivery to the Docket Management Facility at the address under **ADDRESSES**; but please submit them by only one means. If you submit them by mail or delivery, submit them in an unbound format, no larger than 8½ by 11 inches, suitable for copying and electronic filing. If you submit them by mail and would like to know that they reached the Facility, please enclose a stamped, self-addressed postcard or envelope. We will consider all comments and material received during the comment period. We may change the documents supporting this collection of information or even the underlying requirements in view of them.

Viewing comments and documents: To view comments, as well as documents mentioned in this notice as being available in the docket, go to *http://dms.dot.gov* at any time and conduct a simple search using the docket number. You may also visit the Docket Management Facility in room PL–401 on the Plaza level of the Nassif Building, 400 Seventh Street SW., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

Privacy Act: Anyone can search the electronic form of all comments received in dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review the Privacy Act Statement of DOT in the **Federal Register** published on April 11, 2000 (65 FR 19477), or you may visit *http://dms.dot.gov*.

Information Collection Request

1. *Title:* Nondestructive Testing of Certain Cargo Tanks on Unmanned Barges.

OMB Control Number: 1625–0052.

Summary: The Coast Guard uses the results of nondestructive testing to evaluate the suitability of older pressure-vessel-type cargo tanks of unmanned barges to remain in service. Once every 10 years it subjects such a tank, on an unmanned barge 30 years old or older, to nondestructive testing.

Need: Under 46 U.S.C. 3703, the Coast Guard is responsible for ensuring safe shipment of liquid dangerous cargoes and has promulgated regulations for certain barges to ensure the meeting of safety standards.

Respondents: Owners of tank barges.

Frequency: Every 10 years.

Burden Estimate: The estimated burden has increased from 72 hours to 104 hours a year.

2. *Title:* Small Passenger Vessels—Title 46 CFR Subchapters K and T.

OMB Control Number: 1625–0057.

Summary: These information requirements are necessary for the proper administration and enforcement of the program on safety of commercial vessels as it affects small passenger vessels. The requirements affect small passenger vessels (under 100 gross tons) that carry more than 6 passengers.

Need: Under the authority of 46 U.S.C. 3305 and 3306, the Coast Guard prescribed regulations for the design, construction, alteration, repair and operation of small passenger vessels to secure the safety of individuals and property on board. The Coast Guard uses the information in this collection to ensure compliance with the requirements in 46 CFR subchapters K and T.

Respondents: Owners and operators of small passenger vessels.

Frequency: On occasion.

Burden Estimate: The estimated burden has decreased from 366,798 hours to 353,263 hours a year.

3. *Title:* Offshore Supply Vessels—Title 46 CFR Subchapter L.

OMB Control Number: 1625–0065.

Summary: Title 46 U.S.C. 3305 and 3306 authorizes the Coast Guard to prescribe safety regulations. Title 46 CFR subchapter L contains marine safety regulations for offshore supply vessels (OSVs).

Need: The OSV posting/marking requirements are needed to provide instructions to those on board of actions to be taken in the event of an emergency. The reporting/recordkeeping requirements verify compliance with regulations without Coast Guard presence to witness routine matters, including OSVs based overseas as an alternative to Coast Guard reinspection.

Respondents: Owners and operators of vessels.

Frequency: On occasion.

Burden Estimate: The estimated burden has decreased from 6,175 hours to 6,169 hours a year.

Dated: July 6, 2006.

R.T. Hewitt,

Rear Admiral, U.S. Coast Guard, Assistant Commandant for Command, Control, Communications, Computers and Information Technology.

[FR Doc. E6–11167 Filed 7–14–06; 8:45 am]

BILLING CODE 4910–15–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

[USCG–2006–25281]

Collection of Information Under Review by Office of Management and Budget: OMB Control Numbers 1625–0016, 1625–0023, and 1625–0033

AGENCY: Coast Guard, DHS.

ACTION: Request for comments.

SUMMARY: In compliance with the Paperwork Reduction Act of 1995, the U.S. Coast Guard intends to submit Information Collection Requests (ICRs) to the Office of Management and Budget (OMB) to request an extension of their approval of the following collections of information: (1) 1625–0016, Welding and Hot Works Permits; Posting of Warning Signs; (2) 1625–0023, Barge Fleeting Facility Records; and (3) 1625–0033, Display of Fire Control Plans for Vessels. Before submitting the ICRs to OMB, the Coast Guard is inviting comments on them as described below.

DATES: Comments must reach the Coast Guard on or before September 15, 2006.

ADDRESSES: To make sure that your comments and related material do not enter the docket [USCG–2006–25281] more than once, please submit them by only one of the following means:

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

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

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

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

The Docket Management Facility maintains the public docket for this notice. Comments and material received from the public, as well as documents mentioned in this notice as being available in the docket, will become part of this docket and will be available for inspection or copying at room PL–401 on the Plaza level of the Nassif Building, 400 Seventh Street, SW., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. You may also find this docket on the Internet at *http://dms.dot.gov*.

Copies of the complete ICRs are available through this docket on the Internet at *http://dms.dot.gov*, and also from Commandant (CG–611), U.S. Coast Guard Headquarters, room 6106 (Attn: Ms. Barbara Davis), 2100 2nd Street, SW., Washington, DC 20593–0001. The telephone number is 202–475–3523.

FOR FURTHER INFORMATION CONTACT: Ms. Barbara Davis, Office of Information Management, telephone 202–475–3523, or fax 202–475–3929, for questions on these documents; or telephone Ms. Renee V. Wright, Program Manager, Docket Operations, 202–493–0402, for questions on the docket.

SUPPLEMENTARY INFORMATION:

Public Participation and Request for Comments

We encourage you to respond to this request for comments by submitting comments and related materials. We will post all comments received, without change, to *http://dms.dot.gov*; they will include any personal information you have provided. We have an agreement with DOT to use the Docket Management Facility. Please see the paragraph on DOT's "Privacy Act Policy" below.

Submitting comments: If you submit a comment, please include your name and address, identify the docket number [USCG–2006–25281], indicate the specific section of the document to which each comment applies, and give the reason for each comment. You may submit your comments and material by electronic means, mail, fax, or delivery to the Docket Management Facility at the address under **ADDRESSES**; but please submit them by only one means. If you submit them by mail or delivery, submit them in an unbound format, no larger than 8½ by 11 inches, suitable for copying and electronic filing. If you submit them by mail and would like to know that they reached the Facility, please enclose a stamped, self-addressed postcard or envelope. We will consider all comments and material received during the comment period. We may change the documents supporting this collection of information or even the underlying requirements in view of them.

Viewing comments and documents: To view comments, as well as documents mentioned in this notice as being available in the docket, go to *http://dms.dot.gov* at any time and conduct a simple search using the docket number. You may also visit the Docket Management Facility in room PL–401 on the Plaza level of the Nassif Building, 400 Seventh Street, SW., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

Privacy Act: Anyone can search the electronic form of all comments received in dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review the Privacy Act Statement of DOT in the **Federal Register** published on April 11, 2000 (65 FR 19477), or you may visit *http://dms.dot.gov*.

Information Collection Request

1. *Title:* Welding and Hot Work Permits; Posting of Warning Signs.

OMB Control Number: 1625–0016.

Summary: This information collected here helps to ensure that waterfront facilities and vessels are in compliance with safety standards. A permit must be issued prior to welding or hot work on certain waterfront facilities; and, under 33 CFR 126.15(a)(3), the posting of warning signs is required on designated waterfront facilities.

Need: The information is needed to ensure safe operations on certain waterfront facilities and vessels.

Respondents: Owners and operators of certain waterfront facilities and vessels.

Frequency: On occasion.

Burden Estimate: The estimated burden has decreased from 226 hours to 178 hours a year.

2. *Title:* Barge Fleeting Facility Records.

OMB Control Number: 1625–0023.

Summary: This collection of information requires the person-in-charge of a barge fleeting facility to keep records of twice-daily inspections of barge moorings and movements of barges and hazardous cargo in and out of the facility.

Need: Title 33 CFR 165.803 requirements are intended to prevent barges from breaking away from a fleeting facility and drifting downstream out of control in the congested Lower Mississippi River waterway system.

Respondents: Operators of barge fleeting facilities.

Frequency: On occasion.

Burden Estimate: The estimated burden has increased from 32,092 hours to 61,919 hours a year.

3. *Title:* Display of Fire Control Plans for Vessels.

OMB Control Number: 1625–0033.

Summary: This information collection is for the posting or display of specific plans on certain categories of commercial vessels. The availability of these plans aid firefighters and damage control efforts in response to emergencies.

Need: Under 46 U.S.C. 3305 and 3306, the Coast Guard is responsible for ensuring the safety of inspected vessels and has promulgated regulations to ensure that safety standards are met.

Respondents: Owners and operators of vessels.

Frequency: On occasion.

Burden Estimate: The estimated burden has decreased from 911 hours to 859 hours a year.

Dated: July 6, 2006.

R.T. Hewitt,

Rear Admiral, U.S. Coast Guard, Assistant Commandant for Command, Control, Communications, Computers and Information Technology.

[FR Doc. E6–11205 Filed 7–14–06; 8:45 am]

BILLING CODE 4910–15–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

[USCG–2006–25282]

Collection of Information Under Review by Office of Management and Budget: OMB Control Number 1625–0104 and 1625–0110

AGENCY: Coast Guard, DHS.

ACTION: Request for comments.

SUMMARY: In compliance with the Paperwork Reduction Act of 1995, the U.S. Coast Guard intends to submit an Information Collection Request (ICR) to the Office of Management and Budget (OMB) to request an extension of approval for the following collections of information: 1625–0104, Barges Carrying Bulk Hazardous Materials, and 1625–0110, Maritime Identification Credentials—Title 33 CFR Part 125. Before submitting the ICRs to OMB, the Coast Guard is inviting comments on them as described below.

DATES: Comments must reach the Coast Guard on or before September 15, 2006.

ADDRESSES: To make sure that your comments and related material do not enter the docket [USCG–2006–25282] more than once, please submit them by only one of the following means:

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

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

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

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

The Docket Management Facility maintains the public docket for this notice. Comments and material received from the public, as well as documents mentioned in this notice as being available in the docket, will become part of this docket and will be available for inspection or copying at room PL–401 on the Plaza level of the Nassif Building, 400 Seventh Street, SW., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. You may also find this docket on the Internet at *http://dms.dot.gov*.

Copies of the complete ICRs are available through this docket on the Internet at *http://dms.dot.gov*, and also from Commandant (CG–611), U.S. Coast Guard Headquarters, room 6106 (Attn: Ms. Barbara Davis), 2100 2nd Street, SW., Washington, DC 20593–0001. The telephone number is 202–475–3523.

FOR FURTHER INFORMATION CONTACT: Ms. Barbara Davis, Office of Information Management, telephone 202–475–3523, or fax 202–475–3929, for questions on these documents; or telephone Ms. Renee V. Wright, Program Manager, Docket Operations, 202–493–0402, for questions on the docket.

SUPPLEMENTARY INFORMATION:

Public Participation and Request for Comments

We encourage you to respond to this request for comments by submitting comments and related materials. We will post all comments received, without change, to *http://dms.dot.gov*; they will include any personal information you have provided. We have an agreement with DOT to use the Docket Management Facility. Please see the paragraph on DOT's "Privacy Act Policy" below.

Submitting comments: If you submit a comment, please include your name and address, identify the docket number [USCG–2006–25282], indicate the specific section of the document to which each comment applies, and give the reason for each comment. You may submit your comments and material by electronic means, mail, fax, or delivery to the Docket Management Facility at the address under **ADDRESSES**; but please submit them by only one means. If you submit them by mail or delivery, submit them in an unbound format, no larger than 8½ by 11 inches, suitable for copying and electronic filing. If you submit them by mail and would like to know that they reached the Facility, please enclose a stamped, self-addressed postcard or envelope. We will consider all comments and material received during the comment period. We may change the documents supporting this collection of information or even the underlying requirements in view of them.

Viewing comments and documents: To view comments, as well as documents mentioned in this notice as being available in the docket, go to *http://dms.dot.gov* at any time and conduct a simple search using the docket number. You may also visit the Docket Management Facility in room PL–401 on the Plaza level of the Nassif Building, 400 Seventh Street, SW., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

Privacy Act: Anyone can search the electronic form of all comments received in dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review the Privacy Act Statement of DOT in the **Federal Register** published on April 11, 2000 (65 FR 19477), or you may visit *http://dms.dot.gov*.

Information Collection Request

1. *Title:* Barges Carrying Bulk Hazardous Materials.

OMB Control Number: 1625–0104.

Summary: This information is needed to ensure the safe shipment of bulk hazardous liquids in barges. The requirements are necessary to ensure that barges meet safety standards and to ensure that barge crewmembers have the information necessary to operate barges safely.

Need: 46 U.S.C. 3703 authorizes the Coast Guard to prescribe rules related to the carriage of liquid bulk dangerous cargoes. 46 CFR part 151 prescribes rules for barges carrying bulk liquid hazardous materials.

Respondents: Owners and operators of tank barges.

Frequency: On occasion.

Burden Estimate: The estimated burden remains 13,255 hours a year.

2. *Title:* Maritime Identification Credentials—Title 33 CFR Part 125.

OMB Control Number: 1625–0110.

Summary: This information is needed to control access to certain waterfront facilities and ensure that an individual, before entry to one of these facilities—(1) possesses an identification credential listed or approved pursuant to Title 33 CFR part 125, and (2) that the identity information is vetted by the Transportation Security Administration.

Need: 50 U.S.C. 191 authorizes the Coast Guard to prescribe rules to safeguard vessels, ports and waterfront facilities during national emergencies.

Respondents: Operators of port facilities.

Frequency: On occasion.

Burden Estimate: The estimated burden has decreased from 43,796 hours to 14,476 hours a year.

Dated: July 6, 2006.

R.T. Hewitt,

Rear Admiral, U.S. Coast Guard, Assistant Commandant for Command, Control, Communications, Computers and Information Technology.

[FR Doc. E6–11206 Filed 7–14–06; 8:45 am]

BILLING CODE 4910–15–P

DEPARTMENT OF HOMELAND SECURITY

Customs and Border Protection Bureau

Request for Applicants for Appointment to the Departmental Advisory Committee on Commercial Operations of Customs and Border Protection and Related Homeland Security Functions (COAC)

AGENCY: Customs and Border Protection, Department of Homeland Security (DHS).

ACTION: Committee Management; request for applicants for appointment to the Departmental Advisory Committee on Commercial Operations of Customs and Border Protection and Related Homeland Security Functions (COAC).

SUMMARY: Customs and Border Protection (CBP) is requesting individuals who are interested in serving on the Departmental Advisory Committee on Commercial Operations of Customs and Border Protection and Related Homeland Security Functions (formerly known as the "Commercial

Operations Advisory Committee" or "COAC") to apply for appointment. CBP will continue to use "COAC" as the acronym for this Advisory Committee. COAC provides advice and makes recommendations to the Commissioner of CBP, Secretary of Homeland Security, and Secretary of the Treasury on all matters involving the commercial operations of CBP and related DHS functions.

DATES: Applications for membership should reach CBP on or before September 15, 2006.

ADDRESSES: If you wish to apply for membership, your application should be sent to CBP by one of the following methods:

- E-mail: *Traderelations@dhs.gov.*
- Facsimile: (202) 344–1969.
- Mail: Ms. Wanda J. Tate, Program Management Specialist, Office of Trade Relations, Customs and Border Protection, 1300 Pennsylvania Avenue, NW., Room 4.2A, Washington, DC 20229.

FOR FURTHER INFORMATION CONTACT: Ms. Wanda J. Tate, Program Management Specialist, Office of Trade Relations, Customs and Border Protection, (202) 344–1440, FAX (202) 344–1969.

SUPPLEMENTARY INFORMATION: The Departmental Advisory Committee on Commercial Operations of Customs and Border Protection and Related Homeland Security Functions (COAC) is an advisory committee established in accordance with the provisions of the Federal Advisory Committee Act (FACA), 5 U.S.C. App. 2. "COAC" was the acronym for the former "Commercial Operations Advisory Committee" which existed prior to the merger of the former U.S. Customs Service into DHS. CBP will continue to use "COAC" as the acronym for the Departmental Advisory Committee.

Purpose and Objective: The purpose of the Committee is to provide advice to the Commissioner of CBP, the Secretary of Homeland Security, and the Secretary of the Treasury on all matters involving the commercial operations of CBP and related functions within DHS or Treasury. The committee is required to submit an annual report to Congress describing its operations and setting forth any recommendations. The Committee provides a critical and unique forum for distinguished representatives of diverse industry sectors to present their views and advice directly to senior Treasury, DHS, and CBP officials. This is done on a regular basis in an open and candid atmosphere.

Balanced Membership Plans: The members will be selected by the Commissioner of CBP (subject to approval by the Secretary of Homeland Security and the Secretary of the Treasury) from representatives of the trade and transportation community that does business with CBP, or others who are directly affected by CBP commercial operations and related functions. In addition, members will represent major regions of the country, and, by statute, not more than ten of the committee's 20 members may be affiliated with the same political party.

Background

In the Omnibus Budget Reconciliation Act of 1987 (Pub. L. 100–203), Congress directed the Secretary of the Treasury to create an Advisory Committee on Commercial Operations of the Customs Service (now CBP). The Committee is to consist of 20 members drawn from industry sectors affected by Customs commercial operations with balanced political party affiliations. The Committee's first two-year charter was filed on October 17, 1988, and the committee has been renewed for subsequent two-year terms eight times since then.

With the creation of DHS, the Secretary of the Treasury delegated a joint chair and Committee management role to the Secretary of Homeland Security (see Treasury Department Order No. 100–16, 19 CFR part 0 Appx.). In Delegation Number 7010.3 (May, 2006), the Secretary of Homeland Security delegated to the Commissioner of CBP the authority to preside jointly with Treasury over the meetings of the Committee, to make appointments (subject to approval of the Secretary of Homeland Security) to COAC jointly with Treasury, and to receive COAC advice.

It is expected that, during its tenth two-year term, the Committee will consider issues relating to enhanced border and cargo supply chain security. COAC will continue to provide advice and report such matters as on CBP modernization and automation, informed compliance and compliance assessment, account-based processing, commercial enforcement and uniformity, international efforts to harmonize customs practices and procedures, strategic planning, northern border and southern border issues, and relationships with foreign customs authorities.

Committee Meetings

The Committee meets at least once each quarter, although additional meetings may be scheduled. Generally, every other meeting of the Committee may be held outside of Washington, DC, usually at a CBP port of entry.

Committee Membership

Membership on the Committee is personal to the appointee and is concurrent with the two-year duration of the charter for the tenth term. Under the Charter, a member may not send an alternate to represent him or her at a Committee meeting. However, since Committee meetings are open to the public, another person from a member's organization may attend and observe the proceedings in a nonparticipating capacity. Regular attendance is essential; the Charter provides that a member who is absent for two consecutive meetings or two meetings in a calendar year shall be recommended for replacement on the Committee.

No person who is required to register under the Foreign Agents Registration Act as an agent or representative of a foreign principal may serve on this advisory committee.

Members who are currently serving on the Committee are eligible to re-apply for membership provided that they are not in their second consecutive term and that they have met attendance requirements. A new application letter (see **ADDRESSES** above) is required, but it may incorporate by reference materials previously filed (please attach courtesy copies).

Members of COAC will be appointed and serve as Special Government Employees (SGE) as defined in section 202(a) of title 18, United States Code. As a candidate for appointment as a SGE, applicants are required to complete a Confidential Financial Disclosure Report (OGE Form 450). CBP, DHS, and Treasury may not release the report or the information in it to the public except under an order issued by a Federal court or as otherwise provided under the Privacy Act (5 U.S.C. 552a).

Members will not be paid compensation by the Federal Government for their services with respect to the COAC.

Application for Advisory Committee Appointment

There is no prescribed format for the application. Applicants may send a letter describing their interest and qualifications and enclose a resume. Applicants may state the basis on which they believe they qualify for membership, such as their status as stakeholders.

Any interested person wishing to serve on the (COAC) must provide the following:

- Statement of interest and reasons for application;

• Complete professional biography or resume;

• Political affiliation, in order to ensure balanced representation. (If no party registration or allegiance exists, indicate "independent" or "unaffiliated").

In addition, all applicants must state in their applications that they agree to submit to pre-appointment background and tax checks. However, a national security clearance is not required for the position.

In support of the policy of the Department of Homeland Security on gender and ethnic diversity, qualified women and members of minority groups are encouraged to apply for membership.

Dated: July 12, 2006.

W. Ralph Basham,

Commissioner, Customs and Border Protection.

[FR Doc. E6–11285 Filed 7–14–06; 8:45 am]

BILLING CODE 9111–14–P

DEPARTMENT OF HOMELAND SECURITY

Transportation Security Administration

[Docket No. TSA–2006–25335]

RIN 1652–AZ08

Privacy Act of 1974: System of Records; National Finance Center (NFC) Payroll Personnel System

AGENCY: Transportation Security Administration, DHS.

ACTION: Notice to establish a new system of records; request for comments.

SUMMARY: The Transportation Security Administration (TSA) is establishing a new system of records under the Privacy Act of 1974. The new system is known as the National Finance Center Payroll Personnel System (DHS/TSA 022) and is to be used to reflect the agency's migration from its legacy payroll system (the Department of Transportation's Integrated Personnel and Payroll System (IPPS), Consolidated Uniform Payroll System (CUPS), and Consolidated Personnel Management Information System (CPMIS)) to the Department of Agriculture's National Finance Center (NFC).

DATES: Submit comments by August 16, 2006.

ADDRESSES: You may submit comments, identified by the TSA docket number to this rulemaking, using any one of the following methods:

Comments Filed Electronically: You may submit comments through the docket Web site at *http://dms.dot.gov*. You also may submit comments through the Federal eRulemaking portal at *http://www.regulations.gov*.

Comments Submitted by Mail, Fax, or In Person: Address or deliver your written, signed comments to the Docket Management System, U.S. Department of Transportation, Room Plaza 401, 400 Seventh Street, SW., Washington, DC 20590–0001; Fax: 202–493–2251.

See **SUPPLEMENTARY INFORMATION** for format and other information about comment submissions.

FOR FURTHER INFORMATION CONTACT: Lisa S. Dean, Privacy Officer, Office of Transportation Security Policy, TSA–9, 601 South 12th Street, Arlington, VA 22202–4220; telephone (571) 227–3947; facsimile (571) 227–2555.

SUPPLEMENTARY INFORMATION:

Comments Invited

TSA invites interested persons to participate by submitting written comments, data, or views. See **ADDRESSES** above for information on where to submit comments.

With each comment, please include your name and address, identify the docket number at the beginning of your comments, and give the reason for each comment. The most helpful comments reference a specific portion of the document, explain the reason for any recommended change, and include supporting data. You may submit comments and material electronically, in person, by mail, or fax as provided under **ADDRESSES**, but please submit your comments and material by only one means. If you submit comments by mail or delivery, submit them in two copies, in an unbound format, no larger than 8.5 by 11 inches, suitable for copying and electronic filing.

If you want TSA to acknowledge receipt of comments submitted by mail, include with your comments a self-addressed, stamped postcard on which the docket number appears. We will stamp the date on the postcard and mail it to you.

TSA will file in the public docket all comments received by TSA, except for comments containing confidential information and sensitive security information (SSI)[1], TSA will consider all comments received on or before the closing date for comments and will consider comments filed late to the extent practicable. The docket is available for public inspection before and after the comment closing date.

Handling of Confidential or Proprietary Information and Sensitive Security Information (SSI) Submitted in Public Comments

Do not submit comments that include trade secrets, confidential commercial or financial information, or SSI to the public regulatory docket. Please submit such comments separately from other comments on the rulemaking. Comments containing this type of information should be appropriately marked as containing such information and submitted by mail the address listed in **FOR FURTHER INFORMATION CONTACT** section.

Upon receipt of such comments, TSA will not place the comments in the public docket and will handle them in accordance with applicable safeguards and restrictions on access. TSA will hold them in a separate file to which the public does not have access, and place a note in the public docket that TSA has received such materials from the commenter. If TSA receives a request to examine or copy this information, TSA will treat it as any other request under the Freedom of Information Act (FOIA) (5 U.S.C. 552) and the Department of Homeland Security's (DHS') FOIA regulation found in 6 CFR part 5.

Reviewing Comments in the Docket

Please be aware 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 the applicable Privacy Act Statement published in the **Federal Register** on April 11, 2000 (65 FR 19477), or you may visit *http://dms.dot.gov*.

You may review the comments in the public docket by visiting the Dockets Office between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The Dockets Office is located on the plaza level of the Nassif Building at the Department of Transportation address, previously provided under **ADDRESSES.** Also, you may review public dockets on the Internet at *http://dms.dot.gov*.

Availability of Document

You can get an electronic copy using the Internet by—

(1) Searching the Department of Transportation's electronic Docket Management System (DMS) Web page (*http://dms.dot.gov/search*);

[1] "Sensitive Security Information" or "SSI" is information obtained or developed in the conduct of security activities, the disclosure of which would constitute an unwarranted invasion of privacy, reveal trade secrets or privileged or confidential information, or be detrimental to the security of transportation. The protection of SSI is governed by 49 CFR part 1520.

(2) Accessing the Government Printing Office's Web page at *http://www.access.gpo.gov/su_docs/aces/aces140.html;* or

(3) Visiting TSA's Law and Policy web page at *http://www.tsa.gov* and accessing the link for "Law and Policy" at the top of the page.

In addition, copies are available by writing or calling the individual in the **FOR FURTHER INFORMATION CONTACT** section. Make sure to identify the docket number of this document.

Background

The Transportation Security Administration (TSA) is establishing a new system of records to reflect the agency's migration from its legacy payroll and personnel system, the Department of Transportation's Integrated Personnel and Payroll System (IPPS), Consolidated Uniform Payroll System (CUPS), and Consolidated Personnel Management Information System (CPMIS), to become a payroll customer of the USDA's National Finance Center (NFC). This migration is part of an effort on the part of the Department of Homeland Security (DHS) to have all of its components under one payroll system. TSA's move to the NFC also supports the government-wide initiative led by the Office of Personnel Management (OPM) to consolidate executive branch payroll providers. The complete notice of the new system of records follows.

SYSTEM OF RECORDS
DHS/TSA 022

SYSTEM NAME:

National Finance Center Payroll Personnel System (NFC).

SECURITY CLASSIFICATION:

Sensitive, Unclassified.

SYSTEM LOCATION:

Paper records are maintained by the Transportation Security Administration, 601 South 12th Street, Arlington, VA 22202; and at other secure TSA facilities in Reston, Virginia, and Mays Landing, New Jersey. Computerized data is located at the U.S. Department of Agriculture (USDA), National Finance Center, New Orleans, LA 70129.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Current and former employees of the Transportation Security Administration. Only those individuals employed by TSA at the time of the migration will have their records transferred to the NFC.

CATEGORIES OF RECORDS IN THE SYSTEM:

All official personnel actions, basic benefits, pay, cash awards, and leave records of TSA employees. This includes, but is not limited to, employee information; such as: Name, date of birth, social security number (SSN), home and mailing addresses, grade, employing organization, salary, pay plan, number of hours worked, overtime, compensatory time, leave accrual rate, leave usage and balances, Civil Service Retirement and Federal Retirement System contributions, FICA withholdings, Federal, State, and city tax withholdings, Federal Employee Health Benefits withholdings, garnishments, savings bonds allotments, union dues withholdings, deductions for Internal Revenue Service levies, court ordered child support levies, Federal salary offset deductions, and information on the Leave Transfer Program and the Leave Bank Program.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301, 2302(b)(10), 7311, 7313; E.O. 10450 (18 FR 2489, Apr. 29, 1953), 3 CFR, 1949–1953 Comp., p. 936; 5 CFR 731.103.

PURPOSE(S):

Records are maintained to control and facilitate payment of salaries and benefits to TSA civilian employees.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

(1) To the Merit Systems Protection Board, the Office of Special Counsel, the Equal Employment Opportunity Commission, the Social Security Administration, the Office of Personnel Management, the Department of Labor, the Department of Treasury, the Internal Revenue Service, or the Federal Labor Relations Authority, in connection with functions vested in those agencies.

(2) To the parties or complainants, their representatives, and impartial referees, examiners, administrative judges, or other decisionmakers in proceedings under grievance procedures, Equal Employment Opportunity procedures, Merit Systems Protection Board, or similar procedures.

(3) To contractors, grantees, experts, consultants, or volunteers, when necessary, to perform a function or service related to this system of records for which they have been engaged. Such recipients are required to comply with the Privacy Act, 5 U.S.C. 552a, as amended.

(4) To the Department of Justice (DOJ) or other Federal agency for purposes of conducting litigation or proceedings before any court, adjudicative, or administrative body when—

(a) DHS; or

(b) Any employee of DHS in his/her official capacity; or

(c) Any employee of DHS in his/her individual capacity, where DOJ or DHS has agreed to represent the employee; or

(d) The United States or any agency thereof, is a party to the litigation or proceeding, or has an interest in such litigation or proceeding.

(5) To the appropriate Federal, State, local, tribal, territorial, foreign, or international agency responsible for investigating, prosecuting, enforcing, or implementing a statute, rule, regulation, or order; where TSA becomes aware of an indication of a violation or potential violation of civil or criminal law or regulation.

(6) To a Federal, State, local, tribal, territorial, foreign, or international agency, where such agency has requested information relevant or necessary for the hiring or retention of an individual, or the issuance of a security clearance, license, contract, grant, or other benefit.

(7) To a Federal, State, local, tribal, territorial, foreign, or international agency, if necessary, to obtain information relevant to a TSA decision concerning the hiring or retention of an employee, the issuance of a security clearance, license, contract, grant, or other benefit.

(8) To the Office of Management and Budget in connection with private relief legislation.

(9) To a Federal, State, or local agency so that the agency may adjudicate an individual's eligibility for a benefit.

(10) To the Office of Federal Employee's Group Life Insurance to support a claim for life insurance benefits.

(11) To Federal, State, and local taxing authorities as required by law.

(12) To the Civil Service Retirement System to report earnings for members of that system.

(13) To courts to report earnings when garnishments are served, or in bankruptcy or wage earner proceedings.

(14) To financial institutions and employee organizations to transmit payroll deduction information.

(15) To officials of labor organizations as to the identity of employees contributing union dues each pay period, and the amount of dues withheld from each employee.

(16) To multi-employer health and welfare and pension funds, as reasonably necessary and appropriate, for proper administration of the plan of benefits.

(17) To the Federal, State, or local agencies for use in locating individuals and identifying their income sources to

establish paternity, establish and modify orders of support, and for enforcement action.

(18) To the Office of Child Support Enforcement for the release to the Social Security Administration of verifying social security numbers, in connection with the operation of the Federal Parent Locator System.

(19) To Federal agencies as a data source for management information through he production of summary descriptive statistics and analytical studies, in support of the functions for which the records are maintained for related studies.

(20) To the Combined Federal Campaign in connection with payroll deductions for charitable purposes.

(21) To requesting agencies or non-Federal entities under approved computer matching efforts to improve program integrity, and to collect debts and other money owed under those programs (*e.g.*, matching for delinquent loans or other indebtedness to the Government). Computer matching efforts are limited only to those data elements considered relevant to making a determination of eligibility under particular benefit programs administered by those agencies or entities, or by the Department of Treasury, or any constituent unit of the Department.

(22) To a congressional office from the record of an individual, in response to an inquiry from that congressional office made at the request of the individual.

(23) To the National Archives and Records Administration, or other appropriate Federal agency, in records management inspections being conducted under the authority of 44 U.S.C. 2904 and 2906.

(24) To the Department of Justice, United States Attorney's Office, or other Federal agencies, for further collection action on any delinquent debt when circumstances warrant.

(25) To a debt collection agency for the purpose of debt collection.

DISCLOSURE TO CONSUMER REPORTING AGENCIES:

Privacy Act information may be disclosed pursuant to 5 U.S.C. 552a (b)(12) and section 3 of the Debt Collection Act of 1982, Pub. L. 97–365. Debt information concerning a Government claim against an individual is also furnished to consumer agencies in order to encourage repayment of an overdue debt. Disclosures may be made to a consumer reporting agency as defined in the Fair Credit Reporting Act, 15 U.S.C. 1681a(f); or the Federal Claims Collection Act of 1966, 31 U.S.C. 701(a)(3).

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING AND DISPOSING OF RECORDS IN THE SYSTEM: STORAGE:

Records in this system are stored on paper, in official personnel folders, located at TSA and its approved storage sites. Computerized records are stored on an IBM z900 mainframe, with an IBM Shark RAID DASD system, for direct access storage; and in STK 9840 tape silos for long-term data storage, which resides at the NFC.

RETRIEVABILITY:

Records are retrievable by the individual's name or SSN.

SAFEGUARDS:

The National Finance Center is located in a secured Federal complex. Within this secured building, the Computer Operations Center is located in a controlled access room. Specific employees have been identified as system and database administrators having specific responsibilities allowing access to TSA personnel and payroll data. Security is embedded within the software in both the operating system and at the application level. Individuals not granted access rights cannot view or change data. The database is monitored by software applications that provide audits of log-ins, both successful and failed.

Output documents from the system are maintained as hard copy documents by TSA and are safeguarded in secured cabinets within secured rooms.

RETENTION AND DISPOSAL:

Some records are retained and disposed of in accordance with the National Archives and Records Administration's General Records Schedule 1 (Civilian Personnel Records). Other records are retained and disposed of in accordance with General Records Schedule 2 (Payrolling and Pay Administration Records).

SYSTEM MANAGER(S) AND ADDRESS:

The TSA and the USDA National Finance Center share responsibility for system management. The first point of contact is the Director, Human Resources IT and Decision Support, TSA–21, Transportation Security Administration (TSA), 601 South 12th Street, Arlington, VA 22202.

NOTIFICATION PROCEDURE:

To determine whether this system contains records relating to you, write to the System Manager identified above.

RECORD ACCESS PROCEDURES:

Same as "Notification Procedures" above. Provide your full name and a description of information that you seek, including the time frame during which you may have generated the records. Individuals requesting access must comply with the Department of Homeland Security Privacy Act regulations on verification of identity (6 CFR 5.21(d)).

CONTESTING RECORD PROCEDURES:

Same as "Notification Procedure" and "Record Access Procedure," above.

RECORD SOURCE CATEGORIES:

Information contained in the system is obtained from the USDA National Finance Center Payroll/Personnel System, the employee's supervisors, and the employee.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

Issued in Arlington, Virginia.

Peter Pietra,

Director of Privacy Policy and Compliance.

[FR Doc. E6–11235 Filed 7–14–06; 8:45 am]

BILLING CODE 9110–05–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–5037–N–47]

Public Housing Operating Subsidy-Stop Loss and Appeals

AGENCY: Office of the Chief Information Officer, HUD.

ACTION: Notice.

SUMMARY: The proposed information collection requirement described below has been submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. The Department is soliciting public comments on the subject proposal.

To stop the phase-in of the reduction in the amount of subsidy a PHA receives under the new operating fund formula, PHAs submit a "stop loss" package to HUD demonstrating conversion to asset management. To appeal the amount of subsidy on any one of the permitted bases of appeal, PHAs submit an appeal request to HUD.

DATES: *Comments Due Date:* August 16, 2006.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and/or OMB approval Number (2577–Pending) and should be sent to: HUD Desk Officer, Office of Management and Budget, New Executive Office Building, Washington, DC 20503; fax: 202–395–6974.

FOR FURTHER INFORMATION CONTACT: Lillian Deitzer, Reports Management Officer, QDAM, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410; e-mail Lillian Deitzer at *Lillian_L_Deitzer@HUD.gov* or telephone (202) 708–2374. This is not a toll-free number. Copies of available documents submitted to OMB may be obtained from Ms. Deitzer or from HUD's Web site at *http://www5.hud.gov:63001/po/i/icbts/collectionsearch.cfm*.

SUPPLEMENTARY INFORMATION: This notice informs the public that the Department of Housing and Urban Development has submitted to OMB a request for approval of the Information collection described below. This notice is soliciting comments from members of the public and affecting agencies concerning the proposed collection of information to: (1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (2) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information; (3) Enhance the quality, utility, and clarity of the information to be collected; and (4) Minimize the burden of the collection of information on those who are to respond; including through the use of appropriate automated collection techniques or other forms of information technology, *e.g.*, permitting electronic submission of responses.

This Notice Also Lists the Following Information

Title of Proposal: Public Housing Operating Subsidy-Stop Loss and Appeals.

OMB Approval Number: 2577–Pending.

Form Numbers: None.

Description of the Need for the Information and Its Proposed Use: To stop the phase-in of the reduction in the amount of subsidy a PHA receives under the new operating fund formula, PHAs submit a "stop loss" package to HUD demonstrating conversion to asset management. To appeal the amount of subsidy on any one of the permitted bases of appeal, PHAs submit an appeal request to HUD.

Frequency of Submission: On occasion.

	Number of respondents	Annual responses	×	Hours per response	=	Burden hours
Reporting Burden:	2,060	1		17		35,025

Total Estimated Burden Hours: 35,025.

Status: New Collection.

Authority: Section 3507 of the Paperwork Reduction Act of 1995, 44 U.S.C. 35, as amended.

Dated: July 11, 2006.

Lillian L. Deitzer,

Departmental Paperwork Reduction Act Officer, Office of the Chief Information Officer.

[FR Doc. E6–11277 Filed 7–14–06; 8:45 am]

BILLING CODE 4210–67–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–5037–N–46]

Legal Instructions Concerning Applications for Full Insurance Benefits-Assignment of Multifamily Mortgages to the Secretary

AGENCY: Office of the Chief Information Officer, HUD.

ACTION: Notice.

SUMMARY: The proposed information collection requirement described below has been submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. The Department is soliciting public comments on the subject proposal.

Mortgages of HUD-insured multi-family loans may receive mortgage insurance benefits upon assignment of mortgages to HUD. In connection with the assignment, legal documents (*e.g.* mortgage, mortgage note, security agreement, title insurance policy) must be submitted to the Department.

DATES: *Comments Due Date:* August 16, 2006.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and/or OMB approval Number (2510–0006) and should be sent to: HUD Desk Officer, Office of Management and Budget, New Executive Office Building, Washington, DC 20503; fax: 202–395–6974.

FOR FURTHER INFORMATION CONTACT: Lillian Deitzer, Reports Management Officer, QDAM, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410; e-mail Lillian Deitzer at *Lillian_L_Deitzer@HUD.gov* or telephone (202) 708–2374. This is not a toll-free number. Copies of available documents submitted to OMB may be obtained from Ms. Deitzer or from HUD's Web site at *http://www5.hud.gov:63001/po/i/icbts/collectionsearch.cfm*.

SUPPLEMENTARY INFORMATION: This notice informs the public that the Department of Housing and Urban Development has submitted to OMB a request for approval of the Information collection described below. This notice is soliciting comments from members of the public and affecting agencies concerning the proposed collection of information to: (1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (2) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information; (3) Enhance the quality, utility, and clarity of the information to be collected; and (4) Minimize the burden of the collection of information on those who are to respond; including through the use of appropriate automated collection techniques or other forms of information technology, *e.g.*, permitting electronic submission of responses.

This Notice Also Lists the Following Information

Title of Proposal: Legal Instructions Concerning Applications for Full Insurance Benefits-Assignment of Multifamily Mortgages to the Secretary.

OMB Approval Number: 2510–0006.

Form Numbers: None.

Description of the Need for the Information and Its Proposed Use: Mortgages of HUD-insured multi-family loans may receive mortgage insurance benefits upon assignment of mortgages to HUD. In connection with the assignment, legal documents (*e.g.* mortgage, mortgage note, security agreement, title insurance policy) must be submitted to the Department.

Frequency of Submission: On occasion.

	Number of respondents	Annual responses	x	Hours per response	=	Burden hours
Reporting Burden:	128	1		26		3,328

Total Estimated Burden Hours: 3,328.
Status: Extension of a currently approved collection.

Authority: Section 3507 of the Paperwork Reduction Act of 1995, 44 U.S.C. 35, as amended.

Dated: July 10, 2006.

Lillian L. Deitzer,

Departmental Paperwork Reduction Act Officer, Office of the Chief Information Officer.

[FR Doc. E6–11279 Filed 7–14–06; 8:45 am]

BILLING CODE 4210–67–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–5066–N–02]

Public Housing Assessment System; Financial Condition Scoring Process

AGENCY: Office of the Assistant Secretary for Public and Indian Housing, HUD.

ACTION: Final notice.

SUMMARY: This final notice provides information to public housing agencies (PHAs) and members of the public about HUD's process for issuing scores under the Financial Condition Indicator of the Public Housing Assessment System (PHAS). This notice includes revised threshold values and associated points/scores for the expense management component of the Financial Condition Indicator based on available data for PHAs with fiscal years ending March 31, 2004, June 30, 2004, September 30, 2004, and December 31, 2004. The data analyzed is based on generally accepted accounting principles (GAAP) information submitted by PHAs as part of the financial data schedule submission.

FOR FURTHER INFORMATION CONTACT: Contact the Office of Public and Indian Housing, Real Estate Assessment Center (REAC), Attention: Wanda Funk, Department of Housing and Urban Development, Real Estate Assessment Center, 550 12th Street, SW., Suite 100, Washington, DC 20410; telephone the PIH–REAC Technical Assistance Center at (888) 245–4860 (this is a toll free number). Persons with hearing or speech impairments may access this number through TTY by calling the toll-free Federal Information Relay Service at (800) 877–8339. Additional information is available from the PIH–REAC Internet site at *http://www.hud.gov/reac/.*

SUPPLEMENTARY INFORMATION:

I. Background

HUD published the first Public Housing Assessment System; Financial Condition Scoring Process notice in the **Federal Register** on May 13, 1999 (64 FR 26222). HUD republished the notice to coincide with the June 22, 1999, publication of the PHAS proposed rule. Subsequently, HUD revised the notice twice to reflect additional changes to the financial scoring process. The third notice was published on June 28, 2000 (65 FR 40008), and the fourth notice was published on December 21, 2000 (65 FR 80685). This notice is an update of the financial condition scoring process notice published on December 21, 2000. In the December 21, 2000, notice HUD stated that any changes to the scoring process and any modifications to the thresholds would be communicated through a subsequent **Federal Register** notice. Accordingly, this notice updates the December 21, 2000, notice and provides information on the revisions made to the financial condition scoring process. HUD revised the thresholds based on a full year's worth of unaudited and available audited financial information.

This change has been made in accordance with the threshold revaluation schedule set forth in the December 21, 2000, notice. The December 21, 2000, notice stated that the thresholds established in that notice would remain in effect for all unaudited and audited PHA financial submissions for PHAs for a three year period, unless REAC found a need for revisions. In October 2001, July 2003, November 2004, and May 2005, REAC conducted an analysis of the thresholds established in the December 21, 2000, notice and determined not to revise the established thresholds. In August 2005 another analysis was conducted of the threshold established in the December 21, 2000, notice and it was determined that a revision to the expense management component was warranted.

II. Discussion of Public Comments

There were three comments received on the May 2, 2006, notice, two from public housing industry groups and one from a PHA. Several of the issues addressed in the comments pertained to future Financial Condition Indicator changes as a result of asset management and project based accounting and budgeting, as well as related changes to PHAS. Those comments that were not directly related to the revision of the expense management component as set forth in the May 2, 2006, notice are not addressed in this final notice.

Comment: One commenter suggested that the entire Financial Condition Indicator be suspended until a new, project-specific indicator is developed. Until that time, REAC may wish to continue providing scores on the indicator but these scores should be advisory only.

HUD Response: HUD disagrees that the Financial Condition Indicator should be suspended until a new indicator is developed that addresses project based accounting and budgeting, and asset management. With HUD's focus on asset management and project based accounting and budgeting, HUD realizes that there is a need for property based assessments and will develop a revised Public Housing Assessment System (PHAS) to accommodate asset management. Until that time, HUD will continue to score the Financial Condition Indicator, and the indicator score will be part of the overall PHAS score.

Comment: One commenter stated that the thresholds for the expense management component, published on May 2, 2006, demonstrates that these have not been revised frequently enough over the past several years, and felt that more frequent reevaluations will be even more critical when the new funding formula is put in place beginning in 2007. Another commenter stated that the revision to the expense management component is long overdue, and these thresholds should be analyzed and indexed on an annual basis.

HUD Response: The financial indicator scoring thresholds have been reevaluated in October 2001, July 2003, November 2004, May 2005 and August 2005. HUD determined that there was a need for revision as a result of the August 2005 analysis. HUD will continue to evaluate the thresholds and provide revisions as needed, at a maximum of every three years.

Comment: One commenter stated that the proposed rule calls for the use of total units available to determine the size category, but HUD's automated

system appears to utilize total units leased instead.

HUD Response: Peer groupings are established according to the size of the PHA, based on the total number of units operated by the PHA, for all programs and activities. Accordingly, the Financial Condition Indicator of PHAS calculates the peer groupings based on the PHA's financial data schedule (FDS) input for line 1120, units months available. FDS line 1120 is defined as the number of months available for all low rent, Section 8, and other subsidized units except those unit months vacant due to demolition, conversion, ongoing modernization, and units approved for non-dwelling purposes. After the PHA's peer group size has been determined, scoring for the six financial components of the Financial Condition Indicator are based on the threshold value for the PHA's size as discussed, above. Expense management/utility consumption measures the PHA's ability to manage key areas of its annual expenditures at a level relative to its peers, adjusted for size and geographic location. This component compares summary expenditures to unit months leased for the fiscal year for the Low-Rent Public Housing Program only. Total routine expenses measured include the following six expense categories: Administrative, tenant services, utilities, ordinary maintenance and operation, protective services, and general expenses. The summed number is compared to the threshold for the PHA's size as discussed, above, and regional peer group. This component enables PHA management to determine if the per unit cost is reasonable or if unnecessary operating expenditures should be reduced and/or further analyzed.

III. Appendix 2, Expense Management, Revision

The analysis of the thresholds conducted in August 2005 is based on the financial information submitted by PHAs with fiscal years ending March 31, 2004, June 30, 2004, September 30, 2004, and December 31, 2004. As a result of this analysis, it was determined that a revision to the expense management thresholds was warranted, but not to the remaining component thresholds for current ratio, months expendable fund balance, tenants receivable outstanding, occupancy loss and net income and loss. The thresholds for the five financial condition components that will not be changed are included in Appendix 2, Thresholds for Entity-Wide GAAP Scoring, of the December 21, 2000, Public Housing Assessment System; Financial Condition Scoring Process. The table, below, includes the new thresholds for expense management.

The revised expense management thresholds included in this notice, and the remaining five component thresholds included in the December 21, 2000, financial condition notice, which are based on a full year of unaudited and audited financial data based on GAAP, will remain in effect for all unaudited and audited PHA financial submissions for PHAs with fiscal year end on or after September 30, 2006, for a three year period, unless the REAC finds a need for revisions. Any revisions to the thresholds will be communicated through a notice.

The expense management table can be interpreted in the following manner:

- Identify a size category for expense management;
- The rows under that size category identify ranges of possible values for expense management; and
- The column to the right labeled "Points/Score" identifies the points/scores that is awarded to each expense management value for that size category.

The thresholds presented here have been rounded for presentation purposes, whereas those used to calculate scores at the REAC are not rounded.

EXPENSE MANAGEMENT (EM)

Region	Very small and small	Low medium and high medium	Large and extra large	Points/score
	EM<$112.39	EM<$108.52	EM<$128.15	1.5
0	EM≥$112.39	EM≥$108.52	EM≥$128.15	0
1	EM<$114.12	EM<$107.69	EM<$112.87	1.5
1	EM≥$114.12	EM≥$107.69	EM≥$112.87	0
2	EM<$94.59	EM<$118.23	EM<$117.07	1.5
2	EM≥$94.59	EM≥$118.23	EM≥$117.07	0
3	EM<$89.22	EM<$86.68	EM<$101.71	1.5
3	EM≥$89.22	EM≥$86.68	EM≥$101.71	0
4	EM<$91.51	EM<$97.55	EM<$103.73	1.5
4	EM≥$91.51	EM≥$97.55	EM≥$103.73	0
5	EM<$86.66	EM<$95.36	EM<$110.68	1.5
5	EM≥$86.66	EM≥$95.36	EM≥$110.68	0
6	EM<$79.96	EM<$82.36	EM<$122.17	1.5
6	EM≥$79.96	EM≥$82.36	EM≥$122.17	0
7	EM<$99.87	EM<$71.81	EM<$86.02	1.5
7	EM≥$99.87	EM≥$71.81	EM≥$86.02	0
8	EM<$111.02	EM<$133.50	EM<$97.86	1.5
8	EM≥$111.02	EM≥$133.50	EM≥$97.86	0
9	EM<$120.96	EM<$109.90	EM<$136.55	1.5
9	EM≥$120.96	EM≥$109.90	EM≥$136.55	0

Dated: June 29, 2006.

Orlando J. Cabrera,

Assistant Secretary for Public and Indian Housing.

[FR Doc. E6–11282 Filed 7–14–06; 8:45 am]

BILLING CODE 4210–67–P

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

Submission of Paperwork Reduction Act Request to Office of Management and Budget

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Notice.

SUMMARY: This notice announces that the Information Collection Request for Bureau of Indian Affairs (BIA) for a Certificate of Degree of Indian or Alaska Native Blood (CDIB) has been submitted to the Office of Management and Budget (OMB) for approval under the provisions of the Paperwork Reduction Act. The BIA is soliciting public comments on the subject proposal.

DATES: Written comments must be submitted on or before August 16, 2006.

ADDRESSES: Written comments should be sent directly to the Desk Officer for the Department of the Interior, by facsimile at (202) 395–5806 or you may send an e-mail to: *OIRA_DOCKET@omb.eop.gov.*

Send a copy of your comments to Ms. Carolyn Newman, Tribal Enrollment Specialist, Division of Tribal Government Services, Office of Tribal Services, Bureau of Indian Affairs, 1849 C Street, NW., Mail Stop 4513–MIB, Washington, DC 20240.

FOR FURTHER INFORMATION CONTACT: Copies of the information collection may be obtained by contacting Ms. Carolyn Newman, Tribal Enrollment Specialist, at 202–513–7641.

SUPPLEMENTARY INFORMATION: No comments on the workload burden or the form itself (OMB Control No. 1076–0153) were received during or before the close of the public comment period on March 13, 2006, as requested in the notice published January 13, 2006 in the **Federal Register** (71 FR 2268).

Abstract

The purpose of this collection is to assist in determining the eligibility of individuals for various programs and services available to American Indians and Alaska Natives. This part specifies the requirements for the documentation of degree of Indian blood and uniform standards by which we may issue, amend, or invalidate a Certificate of Degree of Indian or Alaska Native Blood. Disclosure of information may be given to the Department of the Interior and the Department of Justice when required for litigation or anticipated litigation. Notification of inquiries or access must be addressed to the appropriate Regional Director, Bureau of Indian Affairs.

Submission of this information is voluntary. However, not providing information may result in a determination that an individual is not eligible to receive program services based upon his/her status as an American Indian or Alaska Native. The information to be collected includes: certificates of birth and death, probate determinations, court orders, affidavits, Federal or tribal census records and Social Security records.

Request for Comments

The Department of the Interior, Bureau of Indian Affairs, invites comments on:

(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 the burden (including the hours and cost) of the proposed collection of information, including the validity of the methodology and assumption 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 collection techniques or other forms of information technology.

The Office of Management and Budget has up to 60 days to approve or disapprove the information collection but may respond after 30 days; therefore, comments submitted in response to this notice should be submitted to OMB within 30 days in order to assure their maximum consideration. Please note: comments, names, addresses of commentators are available for public review during regular business hours. If you wish us to withhold any information, you must state this prominently at the beginning of your comment. We will honor your request to the extent allowable by law. Please note that an agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless a currently valid OMB control number is displayed. You may request copies of the information collection forms and our submission to OMB from the person listed in **FOR FURTHER INFORMATION CONTACT** section. This notice provides the public with 30 days in which to comment on the following information collection activity:

Title: Request for Certificate of Degree of Indian or Alaska Native Blood, 25 CFR part 70.

OMB Control Number: 1076–0153.

Type of review: Renewal.

Description of respondents: Individual Indians who may be eligible to receive program services based upon their status and/or degree of Indian or Alaska Native blood.

Frequency: All information and documentation is to be collected once from each requester.

Estimated completion time: The reporting and recordkeeping burden for this collection of information is estimated to average 1.5 hours for each response for an estimated 154,980 requests per year or 232,470 hours, including the time for reviewing instructions, searching existing data sources and gathering needed data. Thus, the estimated total annual reporting and recordkeeping burden for this entire collection is estimated to be 232,470 hours.

Total annual burden: 232,470 hours.

Estimated non-hour cost: $6,199,200. The cost covers certification of documents and postage and the cost of duplicating the original application form.

Dated: June 8, 2006.

Michael D. Olsen,

Acting Principal Deputy Assistant Secretary—Indian Affairs.

[FR Doc. E6–11211 Filed 7–14–06; 8:45 am]

BILLING CODE 4310–4J–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[WY–920–09–1320–EL, WYW172908]

Coal Lease Exploration License, WY

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of invitation for coal exploration license.

SUMMARY: Pursuant to section 2(b) of the Mineral Leasing Act of 1920, as amended by section 4 of the Federal Coal Leasing Amendments Act of 1976, 90 Stat. 1083, 30 U.S.C. 201(b), and to the regulations adopted as 43 CFR part 3410, all interested parties are hereby invited to participate with Kiewit Mining Properties Inc. on a pro rata cost

sharing basis in its program for the exploration of coal deposits owned by the United States of America in the following-described lands in Campbell County, WY:

T. 52 N., R. 72 W., 6th P.M., Wyoming
Sec. 3: Lots 8, 9, 16, 17;
Sec. 4: Lots 5 through 20;
Sec. 5: Lots 5 through 20;
Sec. 6: Lots 8, 15 through 18, 20 through 23;
Sec. 7: Lots 18 through 20;
Sec. 8: Lots 13 through 16;
Sec. 17: Lots 1 through 4, 5 (N½), 6 (N½), 7 (N½), 8 (N½);
Sec. 18: Lots 5 through 7, 10, 11, 12 (N½, SW¼), 13 (W½), 14, 15, 18, 19, 20 (W½);
Sec. 19: Lots 5 (W½), 6, 7, 10, 11, 12 (W½), 13 (W½), 14, 15, 17 through 19, 20 (W½);
T. 53 N., R. 72 W., 6th P.M., Wyoming
Sec. 31: Lots 5, 10 (S½N½, S½), 11 through 13, 19;
Sec. 32: Lots 1 through 16;
Sec. 33: Lots 1 through 16;
Sec. 34: Lots 4, 5, 12 through 14.
Containing 5071.91 acres, more or less.

All of the coal in the above-described land consists of unleased Federal coal within the Powder River Basin Known Coal Leasing Area. The purpose of the exploration program is to obtain coal structure and quality data and to assess the reserves contained in a potential lease. The proposed exploration program is fully described and will be conducted pursuant to an exploration plan to be approved by the Bureau of Land Management.

ADDRESSES: Copies of the exploration plan are available for review during normal business hours in the following offices (serialized under number WYW172908): Bureau of Land Management, Wyoming State Office, 5353 Yellowstone Road, P.O. Box 1828, Cheyenne, WY 82003; and, Bureau of Land Management, Casper Field Office, 2987 Prospector Drive, Casper, WY 82604. The written notice should be sent to the following addresses: Kiewit Mining Properties Inc., Attn: John Faulconer, P.O. Box 3027, Gillette, WY 82717 and the Bureau of Land Management, Wyoming State Office, Branch of Solid Minerals, Attn: Julie Weaver, P.O. Box 1828, Cheyenne, WY 82003.

SUPPLEMENTARY INFORMATION: This notice of invitation will be published in "The News-Record" of Gillette, WY, once each week for two consecutive weeks beginning the week of July 17, 2006, and in the **Federal Register.** Any party electing to participate in this exploration program must send written notice to both the Bureau of Land Management and Kiewit Mining Properties Inc., as provided in the **ADDRESSES** section above, no later than thirty days after publication of this invitation in the **Federal Register.**

The foregoing is published in the **Federal Register** pursuant to 43 CFR 3410.2–1(c)(1).

Dated: June 26, 2006.

Phillip C. Perlewitz,

Acting Deputy State Director, Minerals and Lands.

[FR Doc. E6–10287 Filed 7–14–06; 8:45 am]

BILLING CODE 4310–22–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[CA–310–0777–XG]

Notice of Public Meeting: Northwest California Resource Advisory Council

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of public meeting.

SUMMARY: In accordance with the Federal Land Policy and Management Act of 1976 (FLPMA), and the Federal Advisory Committee Act of 1972 (FACA), the U.S. Department of the Interior, Bureau of Land Management (BLM) Northwest California Resource Advisory Council will meet as indicated below.

DATES: The meeting will be held Thursday and Friday, August 17 and 18, 2006, in Shelter Cove and Whitethorn, California. On August 17, the meeting begins at 8:30 a.m. at the Shelter Cove Deli, adjacent to Mal Coombs Park. The committee will depart immediately for a day-long field tour of BLM-managed lands and facilities in the King Range National Conservation Area. Members of the public are welcome. They must provide their own transportation and lunch. On August 18, the council convenes at 8:30 a.m. in the Conference Room of the BLM King Range Project Office, 768 Shelter Cove Rd. in Whitethorn. The meeting is open to the public. Public comments will be taken at 11 a.m.

FOR FURTHER INFORMATION CONTACT: Lynda Roush, BLM Arcata Field Office Manager, (707) 825–2300; or BLM Public Affairs Officer Joseph J. Fontana, (530) 252–5332.

SUPPLEMENTARY INFORMATION: The 12-member council advises the Secretary of the Interior, through the BLM, on a variety of planning and management issues associated with public land management in Northwest California. At this meeting, agenda topics will include a continuing discussion about BLM recreation fees, an update on the Ukiah Resource Management Plan, a report on the Mill Creek management plan, an update on a proposed National Recreation Area for the Sacramento River Bend Area, and a report on Sudden Oak Death Syndrome on the California North Coast. The RAC members will also hear status reports from the Arcata, Redding and Ukiah field office managers. All meetings are open to the public. Members of the public may present written comments to the council. Each formal council meeting will have time allocated for public comments. Depending on the number of persons wishing to speak, and the time available, the time for individual comments may be limited. Members of the public are welcome on field tours; but they must provide their own transportation and lunch. Individuals who plan to attend and need special assistance, such as sign language interpretation and other reasonable accommodations, should contact the BLM as provided above.

Dated: July 10, 2006.

Joseph J. Fontana,

Public Affairs Officer.

[FR Doc. E6–11145 Filed 7–14–06; 8:45 am]

BILLING CODE 4310–40–P

DEPARTMENT OF THE INTERIOR

Minerals Management Service

Outer Continental Shelf, Headquarters, Cape Wind Offshore Wind Development 2007

AGENCY: Minerals Management Service (MMS), Interior.

ACTION: Notice of extension of public comment period.

SUMMARY: The Minerals Management Service hereby gives notice that it is extending the public comment period for written scoping comments on the Notice of Intent to prepare an EIS for the Proposed Cape Wind Project which was published in the **Federal Register** on May 30, 2006, (71 FR 30693). In response to requests for additional time, MMS will extend the comment period from July 14, 2006, to July 28, 2006.

Federal, State, tribal, and local governments and other interested parties are requested to send their written comments on the scope of the EIS, significant issues that should be addressed, and potential alternatives and mitigating measures. Written comments will be accepted by mail or through the MMS Web site noted below. Comments are due no later than July 28, 2006.

Mailed comments should be enclosed in an envelope labeled, "Comments on the Notice of Intent to Prepare an EIS on the Cape Wind Project." Mail written comments to: Minerals Management Service, 381 Elden Street, MS 4042, Herndon, Virginia 20170. The MMS will also accept written comments submitted on our electronic public commenting system. This system can be accessed at *http://www.mms.gov/offshore/RenewableEnergy/Projects.htm*.

DATES: Comments must be received no later than July 28, 2006, labeled "Comments on the Notice of Intent to Prepare an EIS for Proposed Cape Wind Project."

FOR FURTHER INFORMATION CONTACT: Dr. Rodney E. Cluck, Project Coordinator at (703) 787-1087 in MMS's Headquarters office regarding questions on the NOI.

Dated: July 7, 2006.

Robert P. LaBelle,

Acting Associate Director for Offshore Minerals Management.

[FR Doc. E6–11259 Filed 7–14–06; 8:45 am]

BILLING CODE 4310–MR–P

DEPARTMENT OF THE INTERIOR

Minerals Management Service

Outer Continental Shelf (OCS) Western Gulf of Mexico (GOM) Oil and Gas Lease Sale 200

AGENCY: Minerals Management Service, Interior.

ACTION: Final Notice of Sale (FNOS) 200.

SUMMARY: On August 16, 2006, the MMS will open and publicly announce bids received for blocks offered in Western GOM Oil and Gas Lease Sale 200, pursuant to the OCS Lands Act (43 U.S.C. 1331–1356, as amended), and the regulations issued thereunder (30 CFR part 256).

The Final Notice of Sale 200 Package (FNOS 200 Package) contains information essential to bidders, and bidders are charged with the knowledge of the documents contained in the Package.

DATES: Public bid reading will begin at 9 a.m., Wednesday, August 16, 2006, in the Acadia Ballroom at the New Orleans Marriott Hotel, 555 Canal Street, New Orleans, Louisiana. All times referred to in this document are local New Orleans times, unless otherwise specified.

ADDRESSES: Bidders can obtain a FNOS 200 Package containing this Notice of Sale and several supporting and essential documents referenced herein from the MMS Gulf of Mexico Region Public Information Unit, 1201 Elmwood Park Boulevard, New Orleans, Louisiana 70123–2394, (504) 736–2519 or (800) 200–GULF, or via the MMS Internet Web site at *http://www.gomr.mms.gov*.

Filing of Bids: Bidders must submit sealed bids to the Regional Director (RD), MMS Gulf of Mexico Region, 1201 Elmwood Park Boulevard, New Orleans, Louisiana 70123–2394, between 8 a.m. and 4 p.m. on normal working days, and from 8 a.m. to the Bid Submission Deadline of 10 a.m. on Tuesday, August 15, 2006. If bids are mailed, please address the envelope containing all of the sealed bids as follows:

Attention: Supervisor, Sales and Support Unit (MS 5422), Leasing Activities Section, MMS Gulf of Mexico Region, 1201 Elmwood Park Boulevard, New Orleans, Louisiana 70123–2394.

Contains Sealed Bids for Oil and Gas Lease Sale 200. *Please Deliver to Ms. Jane Burrell Johnson, Room 311, Immediately.*

Please note: Bidders mailing their bid(s) are advised to call Ms. Jane Burrell Johnson (504) 736–2811 immediately after putting their bid(s) in the mail.

If the RD receives bids later than the time and date specified above, he will return those bids unopened to bidders. Bidders may not modify or withdraw their bids unless the RD receives a written modification or written withdrawal request prior to 10 a.m. on Tuesday, August 15, 2006. Should an unexpected event such as flooding or travel restrictions be significantly disruptive to bid submission, the MMS Gulf of Mexico Region may extend the Bid Submission Deadline. Bidders may call (504) 736–0557 for information about the possible extension of the Bid Submission Deadline due to such an event.

Areas Offered for Leasing: The MMS is offering for leasing all blocks and partial blocks listed in the document "Blocks Available for Leasing in Western GOM Oil and Gas Lease Sale 200" included in the FNOS 200 Package. All of these blocks are shown on the following Leasing Maps and Official Protraction Diagrams:

Outer Continental Shelf Leasing Maps—Texas Map Numbers 1 Through 8 (These 16 Maps Sell for $2.00 Each)

TX1 South Padre Island Area (revised November 1, 2000)
TX1A South Padre Island Area, East Addition (revised November 1, 2000)
TX2 North Padre Island Area (revised November 1, 2000)
TX2A North Padre Island Area, East Addition (revised November 1, 2000)
TX3 Mustang Island Area (revised November 1, 2000)
TX3A Mustang Island Area, East Addition (revised September 3, 2002)
TX4 Matagorda Island Area (revised November 1, 2000)
TX5 Brazos Area (revised November 1, 2000)
TX5B Brazos Area, South Addition (revised November 1, 2000)
TX6 Galveston Area (revised November 1, 2000)
TX6A Galveston Area, South Addition (revised November 1, 2000)
TX7 High Island Area (revised November 1, 2000)
TX7A High Island Area, East Addition (revised November 1, 2000)
TX7B High Island Area, South Addition (revised November 1, 2000)
TX7C High Island Area, East Addition, South Extension (revised November 1, 2000)
TX8 Sabine Pass Area (revised November 1, 2000)

Outer Continental Shelf Official Protraction Diagrams (These 7 Diagrams Sell for $2.00 Each)

NG14–03 Corpus Christi (revised November 1, 2000)
NG14–06 Port Isabel (revised November 1, 2000)
NG15–01 East Breaks (revised November 1, 2000)
NG15–02 Garden Banks (revised November 1, 2000)
NG15–04 Alaminos Canyon (revised November 1, 2000)
NG15–05 Keathley Canyon (revised November 1, 2000)
NG15–08 Sigsbee Escarpment (revised November 1, 2000)

Please note: A CD–ROM (in ARC/INFO and Acrobat (.pdf) format) containing all of the GOM Leasing Maps and Official Protraction Diagrams, except for those not yet converted to digital format, is available from the MMS Gulf of Mexico Region Public Information Unit for a price of $15. These GOM Leasing Maps and Official Protraction Diagrams are also available for free online in .PDF and .GRA format at *http://www.gomr.mms.gov/homepg/lsesale/map_arc.html*.

For the current status of all Western GOM Leasing Maps and Official Protraction Diagrams, please refer to 66 FR 28002 (published May 21, 2001) and 67 FR 60701 (published September 26, 2002). In addition, Supplemental Official OCS Block Diagrams (SOBDs) for these blocks are available for blocks which contain the "U.S. 200 Nautical Mile Limit" line and the "U.S.-Mexico Maritime Boundary" line. These SOBDs

are also available from the MMS Gulf of Mexico Region Public Information Unit. For additional information, please call Ms. Tara Montgomery (504) 736–5722.

All blocks are shown on these Leasing Maps and Official Protraction Diagrams. The available Federal acreage of all whole and partial blocks in this lease sale is shown in the document "List of Blocks Available for Leasing in Lease Sale 200" included in the FNOS 200 Package. Some of these blocks may be partially leased or deferred, or transected by administrative lines such as the Federal/State jurisdictional line. A bid on a block must include all of the available Federal acreage of that block. Also, information on the unleased portions of such blocks is found in the document "Western Gulf of Mexico Lease Sale 200—Unleased Split Blocks and Available Unleased Acreage of Blocks with Aliquots and Irregular Portions Under Lease or Deferred" included in the FNOS 200 Package.

Areas Not Available for Leasing: The following whole and partial blocks are not offered for lease in this lease sale:

Whole blocks and portions of blocks which lie within the boundaries of the Flower Garden Banks National Marine Sanctuary at the East and West Flower Garden Banks and Stetson Bank (the following list includes all blocks affected by the Sanctuary boundaries):

High Island, East Addition, South Extension (Map Number TX7C)

Whole Blocks: A–375, A–398.
Portions of Blocks: A–366, A–367, A–374, A–383, A–384, A–385, A–388, A–389, A–397, A–399, A–401.

High Island, South Addition (Map Number TX7B)

Portions of Blocks: A–502, A–513.

Garden Banks (Map Number NG15–02)

Portions of Blocks: 134, 135.

Whole blocks and portions of blocks which lie within the former Western Gap portion of the 1.4 nautical mile buffer zone north of the continental shelf boundary between the United States and Mexico:

Keathley Canyon (Map Number NG15–05)

Portions of Blocks: 978 through 980.

Sigsbee Escarpment (Map Number NG15–08)

Whole Blocks: 11, 57, 103, 148, 149, 194, 239, 284, 331 through 341.
Portions of Blocks: 12 through 14, 58 through 60, 104 through 106, 150, 151, 195, 196, 240, 241, 285 through 298, 342 through 349.

Statutes and Regulations: Each lease issued in this lease sale is subject to the OCS Lands Act of August 7, 1953, 67 Stat. 462; 43 U.S.C. 1331 *et seq.*, as amended (92 Stat. 629), hereinafter called "the Act"; all regulations issued pursuant to the Act and in existence upon the Effective Date of the lease; all regulations issued pursuant to the statute in the future which provide for the prevention of waste and conservation of the natural resources of the OCS and the protection of correlative rights therein; and all other applicable statutes and regulations.

Lease Terms and Conditions: Initial periods, minimum bonus bid amounts, rental rates, royalty rates, minimum royalty, and royalty suspension areas are shown on the map "Lease Terms and Economic Conditions, Lease Sale 200, Final" for leases resulting from this lease sale:

Initial Periods: 5 years for blocks in water depths of less than 400 meters; 8 years for blocks in water depths of 400 to less than 800 meters (pursuant to 30 CFR 256.37, commencement of an exploratory well is required within the first 5 years of the initial 8-year term to avoid lease cancellation); and 10 years for blocks in water depths of 800 meters or deeper.

Minimum Bonus Bid Amounts: A bonus bid will not be considered for acceptance unless it provides for a cash bonus in the amount of $25 or more per acre or fraction thereof for blocks in water depths of less than 400 meters or $37.50 or more per acre or fraction thereof for blocks in water depths of 400 meters or deeper; to confirm the exact calculation of the minimum bonus bid amount for each block, see "List of Blocks Available for Leasing" contained in the FNOS 200 Package. Please note that bonus bids must be in whole dollar amounts (i.e., any cents will be disregarded by the MMS).

Rental Rates: $6.25 per acre or fraction thereof for blocks in water depths of less than 200 meters and $9.50 per acre or fraction thereof for blocks in water depths of 200 meters or deeper, to be paid on or before the first day of each lease year until a discovery in paying quantities of oil or gas, then at the expiration of each lease year until the start of royalty-bearing production.

Royalty Rates: 16⅔ percent royalty rate for blocks in water depths of less than 400 meters and a 12½ percent royalty rate for blocks in water depths of 400 meters or deeper, except during periods of royalty suspension, to be paid monthly on the last day of the month next following the month during which the production is obtained.

Minimum Royalty: After the start of royalty-bearing production: $6.25 per acre or fraction thereof per year for blocks in water depths of less than 200 meters and $9.50 per acre or fraction thereof per year for blocks in water depths of 200 meters or deeper, to be paid at the expiration of each lease year with credit applied for actual royalty paid during the lease year. If actual royalty paid exceeds the minimum royalty requirement, then no minimum royalty payment is due.

Royalty Suspension Areas: (Leases With Royalty Suspension Volumes Are Authorized Under Existing MMS Rules at 30 CFR Part 260)

Deep Gas Royalty Suspensions

Royalty suspension volumes, subject to price thresholds, will apply to certain gas production from wells completed to depths of at least 15,000 feet true vertical depth subsea (TVD SS) on leases located in water depths less than 400 meters, in accordance with regulations in effect at the time of production. Currently, the regulations are at 30 CFR 203.41–203.47, but these will be revised pursuant to section 344 of the Energy Policy Act of 2005, 42 U.S.C. 15904.

Deep Water Royalty Suspensions

Royalty suspension volumes, subject to price thresholds for both oil and gas, will apply to leases located in water depths of at least 400 meters, as prescribed in section 345 of the Energy Policy Act of 2005, 42 U.S.C. 15905, and applicable MMS rules.

See the map "Lease Terms and Economic Conditions, Lease Sale 200, Final" for specific areas and the "Royalty Suspension Provisions, Lease Sale 200, Final" document contained in the FNOS 200 Package for specific details regarding royalty suspension eligibility, applicable price thresholds and implementation.

Lease Stipulations: The map "Stipulations and Deferred Blocks, Lease Sale 200, Final" depicts the blocks on which one or more of five lease stipulations apply: (1) Topographic Features; (2) Military Areas; (3) Operations in the Naval Mine Warfare Area; (4) Law of the Sea Convention Royalty Payment; and (5) Protected Species. The texts of the stipulations are contained in the document "Lease Stipulations for Oil and Gas Lease Sale 200, Final" included in the FNOS 200 Package. In addition, the "List of Blocks Available for Leasing" contained in the FNOS 200 Package identifies for each block listed

the lease stipulations applicable to that block.

Information to Lessees: The FNOS 200 Package contains an "Information To Lessees" document which provides detailed information on certain specific issues pertaining to this oil and gas lease sale.

Method of Bidding: For each block bid upon, a bidder must submit a separate signed bid in a sealed envelope labeled "Sealed Bid for Oil and Gas Lease Sale 200, not to be opened until 9 a.m., Wednesday, August 16, 2006." The submitting company's name, its GOM Company number, the map name, map number, and block number should be clearly identified on the outside of the envelope. Please refer to the sample bid envelope included within the FNOS 200 Package. Please also refer to the Telephone Numbers/Addresses of Bidders Form included within the FNOS 200 Package. We are requesting that you provide this information in the format suggested for each lease sale. Please provide this information prior to or at the time of bid submission. Do not enclose this form inside the sealed bid envelope. The total amount of the bid must be in a whole dollar amount; any cent amount above the whole dollar will be ignored by the MMS. Details of the information required on the bid(s) and the bid envelope(s) are specified in the document "Bid Form and Envelope" contained in the FNOS 200 Package. A blank bid form has been provided for your convenience which may be copied and filled in.

The MMS published in the **Federal Register** a list of restricted joint bidders, which applies to this lease sale, at 71 FR 25227 on April 28, 2006. Please also refer to joint bidding provisions at 30 CFR 256.41 for additional information. Bidders must execute all documents in conformance with signatory authorizations on file in the MMS Gulf of Mexico Region Adjudication Unit. Partnerships also must submit or have on file a list of signatories authorized to bind the partnership. Bidders submitting joint bids must include on the bid form the proportionate interest of each participating bidder, stated as a percentage, using a maximum of five decimal places, *e.g.*, 33.33333 percent. The MMS may require bidders to submit other documents in accordance with 30 CFR 256.46. The MMS warns bidders against violation of 18 U.S.C. 1860 prohibiting unlawful combination or intimidation of bidders. Bidders are advised that the MMS considers the signed bid to be a legally binding obligation on the part of the bidder(s) to comply with all applicable regulations, including payment of the one-fifth bonus bid amount on all high bids. A statement to this effect must be included on each bid (see the document "Bid Form and Envelope" contained in the FNOS 200 Package).

Rounding: The following procedure must be used to calculate the minimum bonus bid, annual rental, and minimum royalty: Round up to the next whole acreage amount if the tract acreage contains a decimal figure prior to calculating the minimum bonus bid, annual rental, and minimum royalty amounts. The appropriate rate per acre is applied to the whole non-decimal (rounded up) acreage figure, and the resultant calculation is rounded up to the next whole dollar amount if the calculation results in a decimal figure (see next paragraph).

Please note: The minimum bonus bid calculation, including all rounding, is shown in the document "List of Blocks Available for Leasing in Lease Sale 200" included in the FNOS 200 Package.

Bonus Bid Deposit: Each bidder submitting an apparent high bid must submit a bonus bid deposit to the MMS equal to one-fifth of the bonus bid amount for each such bid. Under the authority granted by 30 CFR 256.46(b), the MMS requires bidders to use electronic funds transfer procedures for payment of one-fifth bonus bid deposits for Lease Sale 200, following the detailed instructions contained in the document "Instructions for Making EFT Bonus Payments" which can be found on the MMS Web site at *http://www.gomr.mms.gov/homepg/lsesale/200/wgom200.html.* All payments must be electronically deposited into an interest-bearing account in the U.S. Treasury (account specified in the EFT instructions) by 11 a.m. Eastern Time the day following bid reading. Such a deposit does not constitute and shall not be construed as acceptance of any bid on behalf of the United States. If a lease is awarded, however, MMS requests that only one transaction be used for payment of the four-fifths bonus bid amount and the first year's rental.

Please note: Certain bid submitters (*i.e.*, those that are NOT currently an OCS mineral lease record title holder or designated operator OR those that have ever defaulted on a one-fifth bonus bid payment (EFT or otherwise)) are required to guarantee (secure) their one-fifth bonus bid payment prior to the submission of bids. For those who must secure the EFT one-fifth bonus bid payment, one of the following options may be used: (1) Provide a third-party guarantee; (2) Amend development bond coverage; (3) Provide a letter of credit; or (4) Provide a lump sum payment in advance via EFT. The EFT instructions specify the requirements for each option.

Withdrawal of Blocks: The United States reserves the right to withdraw any block from this lease sale prior to issuance of a written acceptance of a bid for the block.

Acceptance, Rejection, or Return of Bids: The United States reserves the right to reject any and all bids. In any case, no bid will be accepted, and no lease for any block will be awarded to any bidder, unless the bidder has complied with all requirements of this Notice, including the documents contained in the associated FNOS 200 Package and applicable regulations; the bid is the highest valid bid; and the amount of the bid has been determined to be adequate by the authorized officer. Any bid submitted which does not conform to the requirements of this Notice, the Act, and other applicable regulations may be returned to the person submitting that bid by the RD and not considered for acceptance. The Attorney General may also review the results of the lease sale prior to the acceptance of bids and issuance of leases. To ensure that the Government receives a fair return for the conveyance of lease rights for this lease sale, high bids will be evaluated in accordance with MMS bid adequacy procedures. A copy of current procedures, "Modifications to the Bid Adequacy Procedures" at 64 FR 37560 on July 12, 1999, can be obtained from the MMS Gulf of Mexico Region Public Information Unit or via the MMS Internet Web site at *http://www.gomr.mms.gov/homepg/lsesale/bidadeq.html* .

Successful Bidders: As required by the MMS, each company that has been awarded a lease must execute all copies of the lease (Form MMS–2005 (March 1986) as amended), pay by EFT the balance of the bonus bid amount and the first year's rental for each lease issued in accordance with the requirements of 30 CFR 218.155, and satisfy the bonding requirements of 30 CFR part 256, subpart I, as amended.

Also, in accordance with regulations at 43 CFR, part 42, subpart C, the lessee shall comply with the U.S. Department of the Interior's nonprocurement debarment and suspension requirements and agrees to communicate this requirement to comply with these regulations to persons with whom the lessee does business as it relates to this lease by including this term as a condition to enter into their contracts and other transactions.

Affirmative Action: The MMS requests that, prior to bidding, Equal Opportunity Affirmative Action Representation Form MMS 2032 (June 1985) and Equal Opportunity

Compliance Report Certification Form MMS 2033 (June 1985) be on file in the MMS Gulf of Mexico Region Adjudication Unit. This certification is required by 41 CFR part 60 and Executive Order No. 11246 of September 24, 1965, as amended by Executive Order No. 11375 of October 13, 1967. In any event, prior to the execution of any lease contract, both forms are required to be on file in the MMS Gulf of Mexico Region Adjudication Unit.

Geophysical Data and Information Statement: Pursuant to 30 CFR 251.12, the MMS has a right to access geophysical data and information collected under a permit in the OCS. Every bidder submitting a bid on a block in Sale 200, or participating as a joint bidder in such a bid, must submit a Geophysical Data and Information Statement identifying any processed or reprocessed pre- and post-stack depth migrated geophysical data and information in its possession or control and used in the evaluation of that block. The existence, extent (*i.e.*, number of line miles for 2D or number of blocks for 3D) and type of such data and information must be clearly identified. The statement must include the name and phone number of a contact person, and an alternate, knowledgeable about the depth data sets (that were processed or reprocessed to correct for depth) used in evaluating the block. In the event such data and information includes data sets from different timeframes, you should identify only the most recent data set used for block evaluations.

The statement must also identify each block upon which a bidder participated in a bid but for which it does not possess or control such depth data and information.

Every bidder must submit a separate Geophysical Data and Information Statement in a sealed envelope. The envelope should be labeled "Geophysical Data and Information Statement for Oil and Gas Lease Sale 200" and the bidder's name and qualification number must be clearly identified on the outside of the envelope. This statement must be submitted to the MMS at the Gulf of Mexico Regional Office, Attention: Resource Evaluation (1201 Elmwood Park Boulevard, New Orleans, Louisiana 70123–2394) by 10 a.m. on Tuesday, August 15, 2006. The statement may be submitted in conjunction with the bids or separately. Do not include this statement in the same envelope containing a bid. These statements will not be opened until after the public bid reading at Lease Sale 200 and will be kept confidential. An Example of Preferred Format for the Geophysical Data and Information Statement is included in the FNOS 200 Package. Please also refer to a sample of the Geophysical Envelope—Preferred Format included within the FNOS 200 Package.

Please refer to NTL No. 2003–G05 for more detail concerning submission of the Geophysical Data and Information Statement, making the data available to the MMS following the lease sale, preferred format, reimbursement for costs, and confidentiality.

Dated: July 11, 2006.

R.M. "Johnnie" Burton,

Director, Minerals Management Service.

[FR Doc. E6–11246 Filed 7–14–06; 8:45 am]

BILLING CODE 4310–MR–P

DEPARTMENT OF THE INTERIOR

Bureau of Reclamation

Information Collection Activities Under OMB Review

AGENCY: Bureau of Reclamation, Interior.

ACTION: Notice of Data Collection Submission.

SUMMARY: In compliance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*, this notice announces that the Information Collection Request (ICR) abstracted below (OMB No. 1006–0015) has been forwarded to the Office of Management and Budget (OMB) for review and comment. The ICR describes the nature of the information collection and its expected cost and burden.

DATES: Comments must be submitted on or before August 16, 2006.

ADDRESSES: You may send comments regarding the burden estimate, or any other aspect of the information collection, including suggestions for reducing the burden, to the Desk Officer for the Department of the Interior at the Office of Management and Budget, Office of Information and Regulatory Affairs, via facsimile at 202–395–6566 or via e-mail at *OIRA_Docket@omb.eop.gov*. A copy of your comments should also be directed to the Bureau of Reclamation, Attention Ms. Nancy DiDonato, Contract and Repayment Specialist, Lower Colorado Regional Office, P.O. Box 61470, Boulder City, NV 89006–1470.

FOR FURTHER INFORMATION CONTACT: For further information or a copy of the proposed collection of information, contact Ms. Nancy DiDonato at 702–293–8532.

SUPPLEMENTARY INFORMATION: Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of Reclamation, including whether the information shall have practical use; (b) the accuracy of Reclamation's estimated burden of the proposed collection of information; (c) ways to enhance the quality, use, 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 automated collection techniques or other forms of information technology.

Our practice is to make comments, including names and home addresses of respondents, available for public review. Individual respondents may request that we withhold their home address from public disclosures, which we will honor to the extent allowable by law. There also may be circumstances in which we would withhold a respondent's identity from public disclosure, as allowable by law. If you wish us to withhold your name and/or address, you must state this prominently at the beginning of your comment. We will make all submissions from organizations or businesses, and from individuals identifying themselves as representatives or officials of organizations or businesses, available for public disclosure in their entirety.

Title: Diversions, Return Flows, and Consumptive Use of Colorado River Water in the Lower Colorado River Basin.

OMB No.: 1006–0015.

Abstract: Reclamation delivers Colorado River water to water users for diversion and beneficial consumptive use in the States of Arizona, California, and Nevada. Under Supreme Court order, the United States is required, at least annually, to prepare and maintain complete, detailed, and accurate records of diversions of water, return flow, and consumptive use. This information is needed to ensure that a State or a water user within a State does not exceed its authorized use of Colorado River water. Water users are obligated by provisions in their water delivery contracts to provide Reclamation information on diversions and return flows. Reclamation determines the consumptive use by subtracting return flow from diversions or by other engineering means. Without the information collected, Reclamation could not comply with the order of the United States Supreme Court to prepare and maintain detailed and accurate records of diversions, return flow, and consumptive use.

Description of respondents: The Lower Basin States (Arizona, California,

and Nevada), local and tribal entities, water districts, and individuals that use Colorado River water.

Frequency: Monthly, annually, or otherwise as determined by the Secretary of the Interior.

Estimated total number of respondents: 54.

Estimated total number of annual responses: 330.

Estimated total annual burden hours: 290.

ESTIMATED BURDEN FOR EACH FORM

Form No.	Estimated No. of respondents	Total responses per year	Estimated annual burden hours per form
LC–72	6	78	54
LC–72A	8	20	30
LC–72B	15	51	78
Custom Forms	25	181	128

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 Reclamation will display a valid OMB control number on the forms. The **Federal Register** notice with a 60-day comment period soliciting comments on this collection of information was published on April 17, 2006 (71 FR 19749). Reclamation received no comments on this collection of information during the comment period.

OMB has up to 60 days to approve or disapprove this information collection, but may respond after 30 days, therefore, public comment should be submitted to OMB within 30 days in order to assure maximum consideration.

Gary Palmeter,

Manager, Information Management Division, Denver Office.

[FR Doc. 06–6245 Filed 7–14–06; 8:45 am]

BILLING CODE 4310–MN–M

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

Notice of Proposed Information Collection for 1029–0103

AGENCY: Office of Surface Mining Reclamation and Enforcement.

ACTION: Notice and request for comments.

SUMMARY: In compliance with the Paperwork Reduction Act of 1995, the Office of Surface Mining Reclamation and Enforcement (OSM) is announcing that the information collection request regarding noncoal reclamation, found at 30 CFR part 875, has been forwarded to the Office of Management and Budget (OMB) for renewal authority. The information collection request describes the nature of the information collection and the expected burden and cost.

DATES: OMB has up to 60 days to approve or disapprove the information collection but may respond after 30 days. Therefore, public comments should be submitted to OMB by August 16, 2006, in order to be assured of consideration.

ADDRESSES: Comments may be submitted to the Office of Information and Regulatory Affairs, Office of Management and Budget, Department of the Interior Desk Officer, via e-mail at *OIRA_Docket@omb.eop.gov,* or by facsimile to (202) 395–6566. Also, please send a copy of your comments to John A. Trelease, Office of Surface Mining Reclamation and Enforcement, 1951 Constitution Ave, NW., Room 202—SIB, Washington, DC 20240, or electronically to *jtrelease@osmre.gov.* Please reference 1029–0103 in your correspondence.

FOR FURTHER INFORMATION CONTACT: To request a copy of the information collection request, explanatory information and related form, contact John A. Trelease at (202) 208–2783, or electronically at *jtrelease@osmre.gov.*

SUPPLEMENTARY INFORMATION: The Office of Management and Budget (OMB) regulations at 5 CFR part 1320, which implement provisions of the Paperwork Reduction Act of 1995 (Pub. L. 104–13), 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)]. OSM has submitted a request to OMB to renew its approval of the collection of information for noncoal reclamation, found at 30 CFR part 875. OSM is requesting a 3-year term of approval for this information collection activity.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. The OMB control number for this collection of information is listed in 30 CFR part 875, which is 1029–0103.

As required under 5 CFR 1320.8(d), a **Federal Register** notice soliciting comments on these collections of information was published on April 21, 2006 (71 FR 20729). No comments were received. This notice provides the public with an additional 30 days in which to comment on the following information collection activity:

Title: Noncoal Reclamation, 30 CFR part 875.

OMB Control Number: 1029–0103.

Summary: This part establishes procedures and requirements for State and Indian tribes to conduct noncoal reclamation using abandoned mine land funding. The information is needed to assure compliance with the Surface Mining Control and Reclamation Act of 1977.

Bureau Form Numbers: None.

Frequency of Collection: Once.

Description of Respondents: State governments and Indian Tribes.

Total Annual Responses: 1.

Total Annual Burden Hours: 100.

Send comments on the need for the collection of information for the performance of the functions of the agency; the accuracy of the agency's burden estimates; ways to enhance the quality, utility and clarity of the information collection; and ways to minimize the information collection burden on respondents, such as use of automated means of collection of the information, to the following address. Please refer to the appropriate OMB control number in all correspondence.

Dated: July 11, 2006.

John R. Craynon,

Chief, Division of Regulatory Support.

[FR Doc. 06–6247 Filed 7–14–06; 8:45 am]

BILLING CODE 4310–05–M

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

Notice of Proposed Information Collection for 1029–0061 and 1029–0110

AGENCY: Office fo Surface Mining Reclamation and Enforcement.

ACTION: Notice and request for comments.

SUMMARY: In compliance with the Paperwork Reduction Act of 1995, the Office of Surface Mining Reclamation and Enforcement (OSM) is announcing its intention to request renewed approval for the collections of information for 30 CFR 795, Permanent Regulatory Program—Small Operator Assistance Program (SOAP), and two technical training program course effectiveness evaluation forms. These collection requests have been forwarded to the Office of Management and Budget (OMB) for review and approval. The information collection requests describe the nature of the information collections and the expected burden and cost.

DATES: OMB has up to 60 days to approve or disapprove the information collections but may respond after 30 days. Therefore, public comments should be submitted to OMB by August 16, 2006, in order to be assured of consideration.

ADDRESSES: Submit comments to the Office of Information and Regulatory Affairs, Office of Management and Budget, Attention: Department of Interior Desk Officer, by telefax at (202) 395–6566 or via e-mail to *OIRA_Docket@omb.eop.gov*. Also, please send a copy of your comments to John A. Trelease, Office of Surface Mining Reclamation and Enforcement, 1951 Constitution Ave., NW., Room 202—SIB, Washington, DC 20240, or electronically to *jtreleas@osmre.gov*.

FOR FURTHER INFORMATION CONTACT: To request a copy of either information collection request, explanatory information and related forms, contact John A. Trelease at (202) 208–2783, or electronically to *jtreleas@osmre.gov*.

SUPPLEMENTARY INFORMATION: The Office of Management and Budget (OMB) regulations at 5 CFR 1320, which implement provisions of the Paperwork Reduction Act of 1995 (Pub. L. 104–13), 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)]. OSM has submitted two requests to OMB to renew its approval of the collections of information contained in: 30 CFR 795, Permanent Regulatory Program—Small Operator Assistance Program (SOAP); and two technical training program course effectiveness evaluation forms. OSM is requesting a 3-year term of approval for each information collection activity.

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 these collections of information are 1029–0061 for Part 795, amd 1029–0110 for the technical training effectiveness evaluation forms.

As required under 5 CFR 1320.8(d), a **Federal Register** notice soliciting comments on these collections of information was published on March 7, 2006 (71 FR 11446). No comments were received. This notice provides the public with an additional 30 days in which to comment on the following information collection activities:

Title: 30 CFR part 95—Permanent Regulatory Program—Small Operator Assistance Program.

OMB Control Number: 1029–0061.

Summary: This information collector requirement is needed to provide assistance to qualified small mine operators under section 507(c) of Public Law 95–87. The information requested will provide the regulatory authority with data to determine the eligibility of the applicant and the capability and expertise of laboratories to perform required tasks.

Bureau Form Number: FS–6.

Frequency of Collection: Once per application.

Description of Respondents: Small operators, laboratories, and State regulatory authorities.

Total Annual Responses: 4.

Total Annual Burden Hours: 93 hours.

Title: Technical Training Program Course Effectiveness Evaluation.

OMB Control Control Number: 1029–0110.

Summary: Executive Order 12862 requires agencies to survey customers to determine the kind and quality of services they want and their level of satisfaction with existing services. The information supplied by this evaluation will determine customer satisfaction with OSM's training program and identify needs of respondents.

Bureau Form Number: None.

Frequency of Collection: On Occasion.

Description of Respondents: State regulatory authority and Tribal employees and their supervisors.

Total Annual Response: 475.

Total Annual Burden Hours: 79 hours.

Send comments on the need for the collections of information for the performance of the functions of the agency; the accuracy of the agency's burden estimates; ways to enhance the quality, utility and clarity of the information collections; and ways to minimize the information collection burdens on respondents, such as use of automated means of collections of the information, to the following addresses. Please refer to OMB control number 1029–0061 for part 795, and 1029–0110 for the technical training effectiveness evaluation forms.

Dated: May 10, 2006.

Dennis G. Rice,

Acting Chief, Division of Regulatory Support.

[FR Doc. 06–6248 Filed 7–14–06; 8:45 am]

BILLING CODE 4310–05–M

INTERNATIONAL TRADE COMMISSION

[Investigation Nos. 731–TA–471 and 472 (Second Review)]

Silicon Metal From Brazil and China

AGENCY: United States International Trade Commission.

ACTION: Revised schedule for the subject investigations.

DATES: *Effective Date:* July 11, 2006.

FOR FURTHER INFORMATION CONTACT: Karen Taylor (202–708–4101), Office of Investigations, U.S. International Trade Commission, 500 E Street, SW., Washington, DC 20436. Hearing-impaired persons can obtain information on this matter by contacting the Commission's TDD terminal on 202–205–1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202–205–2000. General information concerning the Commission may also be obtained by accessing its Internet server (*http://www.usitc.gov*). The public record for these investigations may be viewed on the Commission's electronic docket (EDIS) at *http://edis.usitc.gov*.

SUPPLEMENTARY INFORMATION: On May 2, 2006, the Commission established a schedule for the conduct of the final phase of the subject investigations (71 FR 26783, May 8, 2006). Subsequently, the Commission found it necessary to revise the schedule.

The Commission's new schedule for the investigations is as follows: requests

to appear at the hearing must be filed with the Secretary to the Commission not later than September 12, 2006; the prehearing conference will be held at the U.S. International Trade Commission Building at 9:30 a.m. on September 15, 2006; the prehearing staff report will be placed in the nonpublic record on August 30, 2006; the deadline for filing prehearing briefs is September 12, 2006; the hearing will be held at the U.S. International Trade Commission Building at 9:30 a.m. on September 19, 2006; the deadline for filing posthearing briefs is October 6, 2006; the Commission will make its final release of information on October 31, 2006; and final party comments are due on November 2, 2006.

For further information concerning these investigations see the Commission's notice cited above and the Commission's Rules of Practice and Procedure, part 201, subparts A through E (19 CFR part 201), and part 207, subparts A and C (19 CFR part 207).

Authority: These investigations are being conducted under authority of title VII of the Tariff Act of 1930; this notice is published pursuant to section 207.21 of the Commission's rules.

Issued: July 12, 2006.

By order of the Commission.

Marilyn R. Abbott,

Secretary to the Commission.

[FR Doc. E6–11273 Filed 7–14–06; 8:45 am]

BILLING CODE 7020–02–P

DEPARTMENT OF LABOR

Office of the Secretary

Submission for OMB Review: Comment Request

July 11, 2006.

The Department of Labor (DOL) has submitted the following public information collection requests (ICR) to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995 (Pub. L. 104–13, 44 U.S.C. chapter 35). A copy of each ICR, with applicable supporting documentation, may be obtained by contacting Darrin King on 202–693–4129 (this is not a toll-free number) or e-mail: *king.darrin@dol.gov.*

Comments should be sent to Office of Information and Regulatory Affairs, Attn: OMB Desk Officer for the Bureau of Labor Statistics (BLS), Office of Management and Budget, Room 10235, Washington, DC 20503, 202–395–7316 (this is not a toll-free number), within 30 days from the date of this publication in the **Federal Register**.

The OMB is particularly interested in comments which:

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

Agency: Bureau of Labor Statistics.

Type of Review: Extension of a currently approved collection.

Title: General Inquiries to State Agency Contacts.

OMB Number: 1220–0168.

Type of Response: Reporting.

Affected Public: State, Local, or Tribal Government.

Frequency: As needed.

Number of Respondents: 55.

Total Annual Responses: 23,890.

Estimated Total Annual Burden Hours: 15,762.

Estimate Average Response Time: 40 minutes.

Total Annualized capital/startup costs: $0.

Total Annual Costs (operating/maintaining systems or purchasing services): $0.

Description: The Bureau of Labor Statistics (BLS) awards funds to State Agencies in order to assist them in operating one or more of seven Labor Market Information and/or Occupational Safety and Health Statistics Federal/State cooperative statistical programs. To ensure a timely flow of data and to be able to evaluate and improve the programs it is necessary to conduct ongoing communications between BLS and its State partners dealing with, for example, deliverables, program enhancements, and administrative issues.

Agency: Bureau of Labor Statistics.

Type of Review: Extension of a currently approved collection.

Title: BLS Occupational Safety and Health Statistics (OSHS) Cooperative Agreement (CA) Application Package.

OMB Number: 1220–0149.

Type of Response: Reporting and Recordkeeping.

Affected Public: State, Local, or Tribal Government.

Frequency: Quarterly and Annually.

Number of Respondents: 56.

Total Annual Responses: 280.

Estimated Total Annual Burden Hours: 336.

Estimate Average Response Time: 3 hours.

Total Annualized capital/startup costs: $0.

Total Annual Costs (operating/maintaining systems or purchasing services): $0.

Description: The BLS signs cooperative agreements with states, and political subdivisions thereof, to assist them in developing and administering programs that deal with occupational safety and health statistics and to arrange through these agreements for the research to further the objectives of the Occupational Safety and Health Act. The OSHS CA application package is representative of the package sent every year to State agencies and is, therefore, considered a "generic" package. The work statements are not the actual work statements that the applicants will see in subsequent fiscal years. Substantive changes to the work statements will be reviewed separately by OMB annually.

Darrin A. King,

Acting Departmental Clearance Officer.

[FR Doc. E6–11213 Filed 7–14–06; 8:45 am]

BILLING CODE 4510–24–P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–58,369]

Agere Systems, Inc.; Including an On-Site Leased Employee of Microtronic, Inc.; Orlando, FL; Amended Certification Regarding Eligibility To Apply for Worker Adjustment Assistance and Alternative Trade Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 U.S.C. 2273), and Section 246 of the Trade Act of 1974 (26 U.S.C. 2813), as amended, the Department of Labor issued a Certification of Eligibility to Apply for Worker Adjustment Assistance and Alternative Trade Adjustment Assistance on December 19, 2005, applicable to workers of Agere Systems, Inc, Orlando, Florida. The notice was published in the **Federal Register** on January 10, 2006 (71 FR 1556). The certification was amended on April 19,

2006 to extend eligibility to apply for alternative trade adjustment assistance to the workers of the subject firm. The notice was published in the **Federal Register** on April 28, 2006 (71 FR 25240).

At the request of a company official, the Department reviewed the certification for workers of the subject firm. The workers were engaged in the production of integrated circuits.

New information shows that a leased worker of Microtronic, Inc. was employed on-site at the Orlando, Florida location of Agere Systems, Inc.

Based on these findings, the Department is amending this certification to include a leased worker of Microtronic, Inc., working on-site at Agere Systems, Inc., Orlando, Florida.

The intent of the Department's certification is to include all workers employed at Agere Systems, Inc., Orlando, Florida who was adversely affected by increased customer imports.

The amended notice applicable to TA–W–58,341 is hereby issued as follows:

All workers of Agere Systems, Inc., including an on-site leased worker of Microtronic, Inc., Orlando, Florida, who became totally or partially separated from employment on or after November 3, 2004, through December 19, 2007, are eligible to apply for adjustment assistance under Section 223 of the Trade Act of 1974, and are also eligible to apply for alternative trade adjustment assistance under Section 246 of the Trade Act of 1974.

Signed at Washington, DC, this 3rd day of July 2006.

Richard Church,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. E6–11221 Filed 7–14–06; 8:45 am]

BILLING CODE 4510–30–P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–58,704]

Brunswick Bowling & Billiards Corp.; a Subsidiary of Brunswick Corporation Including On-Site Leased Workers of Staffing Alliance, Time Services, Manpower and Robert Half Management Resources; Muskegon, MI; Amended Certification Regarding Eligibility To Apply for Worker Adjustment Assistance and Alternative Trade Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor issued a Certification of Eligibility to Apply for Worker Adjustment Assistance and Alternative Trade Adjustment Assistance on February 6, 2006, applicable to workers of Brunswick Bowling & Billiards Corp., a subsidiary of Brunswick Corporation, including leased workers of Staffing Alliance, Muskegon, Michigan. The notice was published in the **Federal Register** on March 2, 2006 (71 FR 10716).

At the request of the petitioners, the Department reviewed the certification for workers of the subject firm. The workers are engaged in the production of bowling balls.

New information shows that leased workers of Time Services, Manpower and Robert Half Management Resources were employed on-site at the Muskegon, Michigan location of Brunswick Bowling & Billiards Corp., a subsidiary of Brunswick Corporation.

Based on these findings, the Department is amending this certification to include leased workers of Time Services, Manpower and Robert Half Management Resources working on-site at Brunswick Bowling & Billiards Corp., a subsidiary of Brunswick Corporation, Muskegon, Michigan.

The intent of the Department's certification is to include all workers employed at Brunswick Bowling & Billiards Corp., a subsidiary of Brunswick Corporation, Muskegon, Michigan who was adversely affected by a shift in production to Mexico.

The amended notice applicable to TA–W–58,704 is hereby issued as follows:

All workers of Brunswick Bowling & Billiards Corp., a subsidiary of Brunswick Corporation, including on-site leased workers of Staffing Alliance, Time Services, Manpower and Robert Half Management Resources, Muskegon, Michigan, who became totally or partially separated from employment on or after January 23, 2005, through February 6, 2008, are eligible to apply for adjustment assistance under Section 223 of the Trade Act of 1974, and are also eligible to apply for alternative trade adjustment assistance under Section 246 of the Trade Act of 1974.

Signed at Washington, DC, this 28th day of June, 2006.

Richard Church,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. E6–11217 Filed 7–14–06; 8:45 am]

BILLING CODE 4510–30–P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–58,625]

Cadence Innovation; Formerly Known as New Venture Industries and Experience Management; Holly Road Facility; Grand Blanc, MI; Amended Certification Regarding Eligibility To Apply for Worker Adjustment Assistance and Alternative Trade Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 U.S.C. 2273), and Section 246 of the Trade Act of 1974, as amended (19 U.S.C. 2813), the Department of Labor issued a Certification of Eligibility to Apply for Worker Adjustment Assistance and Alternative Trade Adjustment Assistance on February 23, 2006, applicable to workers of Cadence Innovation; formerly known as New Ventures Industries and Experience Management, Holly Road Facility, Grand Blanc, Michigan. The notice was published in the **Federal Register** on March 22, 2006 (71 FR 14549).

At the request of petitioners, the Department reviewed the certification for workers of the subject firm. The workers produce program rocker panels (automotive trim).

The Department inadvertently limited the certification to workers engaged in employment related to the production of program rocker panels. Since the workers are not separately identifiable by product, the Department intended to include all workers of the firm. Accordingly, the Department is amending the certification to correct.

The amended notice applicable to TA–W–58,625 is hereby issued as follows:

All workers of Cadence Innovation, formerly known as New Ventures Industries and Experience Management, Holly Road Facility, Grand Blanc, Michigan, who became totally or partially separated from employment on or after January 11, 2005 through February 23, 2008, are eligible to apply for adjustment assistance under Section 223 of the Trade Act of 1974, and are also eligible to apply for alternative trade adjustment assistance under Section 246 of the Trade Act of 1974.

Signed at Washington, DC, this 6th day of July 2006.

Linda G. Poole,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. E6–11220 Filed 7–14–06; 8:45 am]

BILLING CODE 4510–30–P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–58,637]

Carolina Mills, Inc.; Plant No. 9; Valdese, NC; Notice of Revised Determination on Reconsideration

By letter dated March 28, 2006, a company official requested administrative reconsideration regarding the Department's Negative Determination Regarding Eligibility to Apply for Worker Adjustment Assistance, applicable to workers of the subject firm. The Notice of Affirmative Determination Regarding Application for Reconsideration was issued on April 21, 2006, and was published in the **Federal Register** on May 5, 2006 (71 FR 26565).

During the reconsideration investigation, the Department confirmed that the subject firm was a supplier to a company certified for Trade Adjustment Assistance and that the loss of the business by that company contributed importantly to the workers' separations at the subject firm. This customer was one of the subject firm's major declining customers and was certified based on a shift of production to Honduras.

In accordance with Section 246 the Trade Act of 1974 (26 U.S.C. 2813), as amended, the Department of Labor herein presents the results of its investigation regarding certification of eligibility to apply for Alternative Trade Adjustment Assistance (ATAA) for older workers.

In order for the Department to issue a certification of eligibility to apply for ATAA, the group eligibility requirements of Section 246 of the Trade Act must be met. The Department has determined in this case that the requirements of Section 246 have been met. A significant number of workers at the firm are age 50 or over and possess skills that are not easily transferable. Competitive conditions within the industry are adverse.

Conclusion

After careful review of the information obtained in the reconsideration investigation, I determine that workers of the subject firm qualify as adversely affected secondary workers under Section 222 of the Trade Act of 1974, as amended. In accordance with the provisions of the Act, I make the following certification:

All workers of Carolina Mills, Inc., Plant No. 9, Valdese, North Carolina, who became totally or partially separated from employment on or after January 17, 2005 through two years from the date of this certification, are eligible to apply for adjustment assistance under Section 223 of the Trade Act of 1974, and are eligible to apply for alternative trade adjustment assistance under Section 246 of the Trade Act of 1974.

Signed in Washington, DC, this 5th day of July 2006.

Elliott S. Kushner,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. E6–11216 Filed 7–14–06; 8:45 am]

BILLING CODE 4510–30–P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–51,750]

Federated Merchandising Group, A Part of Federated Department Stores, New York, NY; Notice of Negative Determination on Remand

On May 3, 2006, the United States Court of International Trade (USCIT) granted the U.S. Department of Labor's motion for voluntary remand for further investigation in *Former Employees of Federated Merchandising Group, A Part of Federated Department Stores* v. *United States Secretary of Labor,* Court No. 03–00689.

On June 10, 2003, the Department of Labor (Department) issued a negative determination regarding eligibility to apply for Trade Adjustment Assistance (TAA) for the subject workers. The workers produced paper patterns and sample garments at the subject facility and are not separately identifiable by product line. The investigation revealed that worker separations at the subject facility were attributable to neither increased in imports of paper patterns and sample garments nor a shift of production abroad of paper patterns and sample garments, but to improved pattern production technology (use of computer design programs has reduced the need for manual pattern making and subsequent sample making). AR 16. The Notice of determination was published in the **Federal Register** on June 19, 2003 (68 FR 36846). AR 22

On August 19, 2003, a Notice of Negative Determination Regarding Application for Reconsideration was issued in response to the July 2, 2003 request for reconsideration on the findings of neither error nor misunderstanding of the law or facts in the investigation. AR 31. The Notice was published in the **Federal Register** on September 30, 2003 (68 FR 56327). AR 32

On July 6, 2005, the Department issued a Notice of Negative Determination on Remand. The determination stated that the workers' separations were due to the subject firm's institution of production improvement measures which resulted in the reduced need for manual labor in general. SAR 15. The Notice was published in the **Federal Register** on July 14, 2005 (70 FR 40737). SSAR 1

The purpose of the second remand is to address causation, whether the subject workers could be divided into distinct subgroups, and whether the subject workers are eligible to apply for TAA.

Because 29 CFR 90.2 defines a "group" as three or more workers in a firm or an appropriate subdivision and "appropriate subdivision" as an establishment in a multi-establishment firm or a distinct section of an establishment, which produces the domestic article(s) in question, the Department determines that workers could be divided into distinct subgroups if multiple articles are produced by the subject firm or an appropriate subdivision and the workers are separately identifiable by the article produced. The regulations explicitly allow the Department to examine different segments of workers when deciding whether an application should be certified. 29 CFR 90.16(g). The Department is not limited to the unit described in the application. 29 CFR 90.16(d)(1).

In the case hand, the subject workers produce two distinct articles, handmade patterns and hand-sewn samples, AR 2, 14, 26, 29 and SAR 10, 14–15, and the workers producing handmade patterns have skills which are distinguishable from those producing hand-sewn samples. AR 26, SAR 10, SSAR 17, 25–31, 33–34. Further, the subject firm identifies the Plaintiff as the Director of Pattern Services, SSAR 17, and the Plaintiff identifies himself as a patternmaker. AR 26, SSAR 13, 25–31. As such, the Department determines that the subject workers are, in fact, two distinct subgroups: Pattern makers and sample makers.

To determine whether a worker group is eligible to apply for TAA, the Department must ascertain whether the criteria set forth in 29 CFR 90.16(b) was met:

(1) A significant number or proportion of the workers in such workers' firm (or appropriate subdivision of the firm) have become, or are threatened to become, totally or partially separated;

(2) Sales or production, or both, of such firm or subdivision have decreased absolutely; and

(3) Increases (absolute or relative) of imports of articles produced by such workers' firm or an appropriate subdivision thereof contributed importantly to such total or partial separation, or threat thereof, and to such decline in sales or production.

29 CFR 90.2 states that "significant number or proportion of the workers" means at least three workers in a firm (or appropriate subdivision) with a work force of fewer than 50 workers.

Should the USCIT accept the Department's determination that there are two distinct worker groups in the case at hand, the Department presents its analysis regarding the pattern makers' and sample makers' applications for TAA certification.

Although the respective workers groups of pattern makers and sample makers each qualify as a "group" (three or more workers producing an article) independently, each worker group fails to satisfy 29 CFR 90.16(b)(1) because only two of each group were separated. AR 26 and SSAR 16–17.

Should the USCIT reject the Department's determination that there are two distinct worker groups, the Department presents its analysis regarding the TAA petition filed on behalf of the worker group consisting of pattern makers and sample makers.

While this larger group consisting of pattern makers and sample makers meets 29 CFR 90.16(b) (1) and (2), SSAR 4, 8, 13, criterion three has not been met.

29 CFR 90.2 states that "increased imports" means imports have increased, absolutely or relative to domestic production, compared to a representative base period. The regulation also establishes the representative base period as the one-year period preceding the date twelve months prior to the petition date.

Because the petition date of TA–W–51,750 is May 5, 2003, the relevant period is May 5, 2002 through May 5, 2003 and the representative base period is May 5, 2001 through May 5, 2002. Therefore, increased imports is established if import levels during May 5, 2002 through May 5, 2003 are greater than import levels during May 5, 2001 through May 5, 2002.

While the Plaintiff has provided evidence of increased competition from China, SSAR 25–28, and the declining role of manual pattern makers in America, SSAR 29–31, the material falls outside the relevant period (2005 and 2004, respectively) and, therefore, do not bear on the case at hand. What is relevant, however, is previously-submitted material that shows that there were no increased imports of either patterns or samples during the relevant period as compared to the representative base period. SAR 10–11, 14.

On voluntary remand, the USCIT ordered the Department to determine whether the TAA required that plaintiffs lost their jobs on account of a shift in production. In *Former Employees of Barry Callebaut* v. *Herman*, 177 F. Supp.2d 1304 (CIT 2001), the USCIT addressed that very issue with regard to NAFTA TAA. There, the USCIT concluded that "[t]he legislative history behind NAFTA TAA shows that the program is intended to benefit displaced workers whose separations *were caused by shifts in production*." Id. at 1312. The USCIT added that NAFTA TAA "is not intended to benefit workers whose separations *were not caused by shifts in production*." *Id.* The language in the TAA regarding shifts in production is almost identical to that in the NAFTA TAA, and the purpose of the statute is the same. Therefore, causation is a requirement for a shift in production case.

Therefore, the Department determines that the subject workers have not met the criteria set forth in Section 222 of the Trade Act of 1974, as amended, and are not eligible to apply for worker adjustment assistance.

Conclusion

As the result of the findings of the investigation on remand, I affirm the original notice of negative determination of eligibility to apply for adjustment assistance for workers and former workers of Federated Merchandising Group, A Part of Federated Department Stores, New York, New York.

Signed at Washington, DC, this 3rd day of July 2006.

Linda G. Poole,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. E6–11225 Filed 7–14–06; 8:45 am]

BILLING CODE 4510–30–P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–59,078]

Hexion Specialty Chemicals, Inc., FFP Division, Including On-Site Leased Workers of Express Personnel, High Point, NC; Notice of Revised Determination on Reconsideration

By application dated May 11, 2006, a worker requested administrative reconsideration regarding the Department's Negative Determination Regarding Eligibility to Apply for Worker Adjustment Assistance, applicable to workers of the subject firm. The Notice of Affirmative Determination Regarding Application for Reconsideration was issued on May 16, 2006, and was published in the **Federal Register** on May 25, 2006 (71 FR 30200). Workers produce wood adhesives and ancillary products.

In the request for reconsideration, the worker alleges that the subject firm supplied wood adhesive to customers affected by increased imports of wood furniture.

During the reconsideration investigation, the Department contacted the subject firm and was informed that the adhesive produced by the subject workers is a component of wood furniture.

Based on this new information, the Department conducted an investigation to determine whether the subject workers are eligible to apply for Trade Adjustment Assistance (TAA) as workers of a secondarily-affected company (supplier to a firm that employed workers who received a certification and such supply is related to the article that was the basis for such certification). As part of this investigation, the Department reviewed comprehensive information from the subject firm regarding 2004 and 2005 sales figures of wood adhesives.

A careful analysis of this information and a careful search of the TAA database revealed that a significant number of the sixteen major declining customers who were TAA certified during the relevant period had ceased production. Therefore, the Department determines that the loss of the business by those customers contributed importantly to the workers' separations at the subject firm.

In accordance with Section 246 the Trade Act of 1974 (26 U.S.C. 2813), as amended, the Department herein presents the results of its investigation regarding certification of eligibility to apply for Alternative Trade Adjustment Assistance (ATAA) for older workers.

In order for the Department to issue a certification of eligibility to apply for ATAA, the group eligibility requirements of Section 246 of the Trade Act must be met. The Department has determined in the case at hand that the requirements of Section 246 have been met. A significant number of workers at the firm are age 50 or over and possess skills that are not easily transferable. Competitive conditions within the industry are adverse.

Conclusion

After careful review of the information obtained in the reconsideration investigation, I determine that workers of the subject firm qualify as adversely affected secondary workers under Section 222 of the Trade Act of 1974, as amended. In accordance with the provisions of the Act, I make the following certification:

All workers of Hexion Specialty Chemicals, Inc., FFP Division, High Point, North Carolina, including leased workers of Express Personnel working on site, who became totally or partially separated from employment on or after March 22, 2005 through two years from the date of this certification, are eligible to apply for adjustment assistance under Section 223 of the Trade Act of 1974, and are eligible to apply for alternative trade adjustment assistance under Section 246 of the Trade Act of 1974.

Signed in Washington, DC this 6th day of July 2006.

Elliott S. Kushner,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. E6–11222 Filed 7–14–06; 8:45 am]

BILLING CODE 4510–30–P

DEPARTMENT OF LABOR

Employment and Training Administration

Investigations Regarding Certifications of Eligibility To Apply for Worker Adjustment Assistance and Alternative Trade Adjustment Assistance

Petitions have been filed with the Secretary of Labor under Section 221(a) of the Trade Act of 1974 ("the Act") and are identified in the Appendix to this notice. Upon receipt of these petitions, the Director of the Division of Trade Adjustment Assistance, Employment and Training Administration, has instituted investigations pursuant to Section 221(a) of the Act.

The purpose of each of the investigations is to determine whether the workers are eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act. The investigations will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved.

The petitioners or any other persons showing a substantial interest in the subject matter of the investigations may request a public hearing, provided such request is filed in writing with the Director, Division of Trade Adjustment Assistance, at the address shown below, not later than July 27, 2006. Interested persons are invited to submit written comments regarding the subject matter of the investigations to the Director, Division of Trade Adjustment Assistance, at the address shown below, not later than July 27, 2006.

The petitions filed in this case are available for inspection at the Office of the Director, Division of Trade Adjustment Assistance, Employment and Training Administration, U.S. Department of Labor, Room C–5311, 200 Constitution Avenue, NW., Washington, DC 20210.

Signed at Washington, DC, this 5th day of July 2006.

Erica R. Cantor,

Director, Division of Trade Adjustment Assistance.

APPENDIX

[TAA petitions instituted between 6/26/06 and 6/30/06]

TA–W	Subject firm (petitioners)	Location	Date of institution	Date of petition
59621	Irving Tissue Inc (Comp)	Fort Edward, NY	06/26/06	06/23/06
59622	Gyrus ACMI Corporation (Comp)	Racine, WI	06/26/06	06/22/06
59623	Hexcel (State)	Livermore, CA	06/26/06	06/14/06
59624	Pintex Cutting Company (Comp)	Greenville, SC	06/26/06	06/08/06
59625	P.W. Minor and Son Inc. (Comp)	Batavia, NY	06/26/06	06/14/06
59626	Tower Automotive Products Co, Inc. (Union)	Milan, TN	06/26/06	06/12/06
59627	Liebert Corporation (UAW)	Irvine, CA	06/26/06	06/20/06
59628	New Venture Industries (UAW)	Grand Blanc, MI	06/26/06	06/19/06
59629	IPC Print Services (Wkrs)	Saint Joseph, MI	06/26/06	06/13/06
59630	Johnson Controls Inc. (UAW)	Oklahoma City, OK	06/26/06	06/13/06
59631	Moosehead Manufacturing Co. (State)	Monson & Dover Foxcroft, ME.	06/26/06	06/26/06
59632	Light Master Systems Inc. (Wkrs)	Cupertino, CA	06/26/06	06/07/06
59633	Dancin Cowboy, Inc. (State)	Gonzales, TX	06/26/06	06/22/06
59634	Hi-Lite Industries Inc. (Wkrs)	Greensburg, PA	06/27/06	06/26/06
59635	Minnesota Rubber (USW)	Mason City, IA	06/27/06	06/23/06
59636	Larose Inc. (Comp)	New York, NY	06/27/06	06/20/06
59637	Lenovo USA (Wkrs)	Research Triangle Park, NC	06/27/06	06/26/06
59638	Schweitzer-Mauduit International Inc. (Comp)	Lee, MA	06/27/06	06/26/06
59639	Solectron, USA (Wkrs)	Charlotte, NC	06/28/06	06/07/06
59640	Armstrong World Industies Inc. (Wkrs)	Lancaster, PA	06/28/06	06/27/06
59641	Arizona Textiles (State)	Phoenix, AZ	06/28/06	06/27/06
59642	Fontaine International Inc. (Wkrs)	Calera, AL	06/28/06	06/23/06
59643	Graham Packaging (Wkrs)	Cincinnati, OH	06/28/06	06/27/06
59644	Quebecor World Kingsport (Union)	Kintsport, TN	06/28/06	06/24/06
59645	Metal Ware Corporation (IAMAW)	Two Rivers, WI	06/28/06	06/20/06
59646	Aircast (Comp)	Summit, NJ	06/29/06	06/24/06
59647	Rad Technologies (State)	Sun Valley, CA	06/29/06	06/28/06
59648	Adecco (Wkrs)	Ft. Madison, IA	06/29/06	06/27/06
59649	Rowe Furniture, Inc. (Wkrs)	Elliston, VA	06/29/06	06/28/06
59650	Pendleton Woolen Mills Inc. (Comp)	Bellevue, NE	06/29/06	06/27/06
59651	Superior Industries Int'l. Inc. (State)	Fayetteville, AR	06/29/06	06/28/06
59652	Stanton International (State)	Phoenix, AZ	06/29/06	06/28/06
59653	Utility Craft Inc. (Comp)	High Point, NC	06/29/06	06/22/06
59654	House of Perfection Inc. (Wkrs)	West Columbia, SC	06/29/06	06/23/06
59655	Boeing Company (UAW)	Long Beach, CA	06/30/06	06/20/06

APPENDIX—Continued

[TAA petitions instituted between 6/26/06 and 6/30/06]

TA–W	Subject firm (petitioners)	Location	Date of institution	Date of petition
59656	Nautilus Inc. (State)	Tyler, TX	06/30/06	06/29/06
59657	IH Services (Wkrs)	Greenville, SC	06/30/06	06/29/06
59658	Sanmina—SCI (Wkrs)	Durham, NC	06/30/06	06/24/06
59659	Jideco of Bardstown, Inc. (Comp)	Bardstown, KY	06/30/06	06/09/06

[FR Doc. E6–11215 Filed 7–14–06; 8:45 am]
BILLING CODE 4510–30–P

DEPARTMENT OF LABOR

Employment and Training Administration

Notice of Determinations Regarding Eligibility To Apply for Worker Adjustment Assistance and Alternative Trade Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974, as amended (19 U.S.C. 2273) the Department of Labor herein presents summaries of determinations regarding eligibility to apply for trade adjustment assistance for workers (TA–W) number and alternative trade adjustment assistance (ATAA) by (TA–W) number issued during the period of June 2006.

In order for an affirmative determination to be made for workers of a primary firm and a certification issued regarding eligibility to apply for worker adjustment assistance, each of the group eligibility requirements of Section 222(a) of the Act must be met.

I. Section (a)(2)(A) all of the following must be satisfied:

A. A significant number or proportion of the workers in such workers' firm, or an appropriate subdivision of the firm, have become totally or partially separated, or are threatened to become totally or partially separated;

B. The sales or production, or both, of such firm or subdivision have decreased absolutely; and

C. Increased imports of articles like or directly competitive with articles produced by such firm or subdivision have contributed importantly to such workers' separation or threat of separation and to the decline in sales or production of such firm or subdivision; or

II. Section (a)(2)(B) both of the following must be satisfied:

A. A significant number or proportion of the workers in such workers' firm, or an appropriate subdivision of the firm, have become totally or partially separated, or are threatened to become totally or partially separated;

B. There has been a shift in production by such workers' firm or subdivision to a foreign country of articles like or directly competitive with articles which are produced by such firm or subdivision; and

C. One of the following must be satisfied:

1. The country to which the workers' firm has shifted production of the articles is a party to a free trade agreement with the United States;

2. The country to which the workers' firm has shifted production of the articles to a beneficiary country under the Andean Trade Preference Act, African Growth and Opportunity Act, or the Caribbean Basin Economic Recovery Act; or

3. There has been or is likely to be an increase in imports of articles that are like or directly competitive with articles which are or were produced by such firm or subdivision.

Also, in order for an affirmative determination to be made for secondarily affected workers of a firm and a certification issued regarding eligibility to apply for worker adjustment assistance, each of the group eligibility requirements of Section 222(b) of the Act must be met.

(1) Significant number or proportion of the workers in the workers' firm or an appropriate subdivision of the firm have become totally or partially separated, or are threatened to become totally or partially separated;

(2) The workers' firm (or subdivision) is a supplier or downstream producer to a firm (or subdivision) that employed a group of workers who received a certification of eligibility to apply for trade adjustment assistance benefits and such supply or production is related to the article that was the basis for such certification; and

(3) Either—

(A) The workers' firm is a supplier and the component parts it supplied for the firm (or subdivision) described in paragraph (2) accounted for at least 20 percent of the production or sales of the workers' firm; or

(B) A loss or business by the workers' firm with the firm (or subdivision) described in paragraph (2) contributed importantly to the workers' separation or threat of separation.

In order for the Division of Trade Adjustment Assistance to issued a certification of eligibility to apply for Alternative Trade Adjustment Assistance (ATAA) for older workers, the group eligibility requirements of Section 246(a)(3)(A)(ii) of the Trade Act must be met.

1. Whether a significant number of workers in the workers' firm are 50 years of age or older.

2. Whether the workers in the workers' firm possess skills that are not easily transferable.

3. The competitive conditions within the workers' industry (*i.e.*, conditions within the industry are adverse).

Affirmative Determinations for Worker Adjustment Assistance

The following certifications have been issued. The date following the company name and location of each determination references the impact date for all workers of such determination.

The following certifications have been issued. The requirements of Section 222(a)(2)(A) (increased imports) of the Trade Act have been met.

TA–W–59,457; James and Sons Neckwear, Inc., Sewell, NJ: May 16, 2005

The following certifications have been issued. The requirements of Section 222(a)(2)(B) (shift in production) of the Trade Act have been met.

TA–W–59,493; Titan Plastics Group, Tech Center, Portage, MI: November 6, 2005

The following certifications have been issued. The requirements of Section 222(b) (supplier to a firm whose workers are certified eligible to apply for TAA) of the Trade Act have been met.

TA–W–59,551; Advanced Casting, Inc., On-Site Temp Depot, Central Falls, RI: June 1, 2005

TA–W–59,431; Mag, Inc., Martinsville, IN: May 18, 2005

TA–W–59,369; 3M Precision Optics, Cincinnati, OH: May 13, 2005

The following certifications have been issued. The requirements of Section

222(b) (downstream producer for a firm whose workers are certified eligible to apply for TAA based on increased imports from or a shift in production to Mexico or Canada) of the Trade Act have been met.

None.

Affirmative Determinations for Worker Adjustment Assistance and Alternative Trade Adjustment Assistance

The following certifications have been issued. The date following the company name and location of each determination references the impact date for all workers of such determination.

The following certifications have been issued. The requirements of Section 222(a)(2)(A) (increased imports) and Section 246(a)(3)(A)(ii) of the Trade Act have been met.

TA–W–59,522; InBev USA, dba Latrobe Brewing Co., Latrobe, PA: June 5, 2005

TA–W–59,402; McArthur Processional, Inc., Professional Towel Mills Division, Abbeville, SC: May 15, 2005

TA–W–59,335; Smead Manufacturing Co., Logan Plant Division, Logan, OH: December 23, 2005

TA–W–59,282; Lyon Workspace Products, Div. of L&D Group, Montgomery, IL: April 5, 2005

TA–W–59,557; GFP Strandwood Corp., Hancock, MI: June 12, 2005

TA–W–59,524; Chardon Rubber Company (The), Alliance, OH: June 2, 2005

TA–W–59,507; Tower Automotive Michigan, LLC, Greenville Business Unit Division, Greenville, MI: May 22, 2005

TA–W–59,478; Maytag International, Subsidiary of Whirlpool Corporation, Schaumburg, IL: May 25, 2005

TA–W–59,428; A.W. Bohanan Company, Dallas, NC: May 17, 2005

TA–W–59,381; Shieldalloy Metallurgical Corp., Metallurg, Inc., Newfield, NJ: May 11, 2005

TA–W–59,337; Carolina Mills Inc, Plant #1, Maiden, NC: May 4, 2005

TA–W–59,274; Memphis Hardwood Flooring, Memphis, TN: April 24, 2005

TA–W–59,260; Capital City Press, Inc., Printing Division, Berlin, VT: April 14, 2005

TA–W–58,985; Bristol Compressors, A Subsidiary of York International, A Johnson Controls Co., Bristol, VA: March 2, 2005

TA–W–58,969; PPLLC Corporation, A Subsidiary of Panel Products, LLC, White City, OR: March 6, 2005

The following certifications have been issued. The requirements of Section 222(a)(2)(B) (shift in production) and Section 246(a)(3)(A)(ii) of the Trade Act have been met.

TA–W–59,595; Comor, Inc., On-Site Leased Workers of M-Ploy, Cochranton, PA: June 19, 2005

TA–W–59,574; Kentucky Derby Hosiery Co., Plant #1 Division, Hickory, NC: June 12, 2005

TA–W–59,572; GFSI, dba Gear for Sports, Bedford, IA: June 14, 2005

TA–W–59,567; General Electric Dothan Motor Plant, Consumer and Industrial Division, Dothan, AL: June 13, 2005

TA–W–59,563; Distinctive Designs Furniture USA, Sewing Department, Granite Falls, NC: June 12, 2005

TA–W–59,537A; Maxtor Corporation, MMTechnology Div., Fremont, CA: June 8, 2005

TA–W–59,537; Maxtor Corporation, MMTechnology Div., San Jose, CA: June 8, 2005

TA–W–59,514; Bob Barker Co. Inc., Fuquay-Varina, NC: June 1, 2005

TA–W–59,493; Titan Plastics Group, Tech Center, Portage, MI: November 6, 2005

TA–W–59,476; Paxar Americas, Inc., A Subsidiary of Paxar Corp., Rock Hill, SC: May 26, 2005

TA–W–59,550; FMC Technologies, Inc., Energy Processing Division, Homer City, PA: May 22, 2005

The following certifications have been issued. The requirements of Section 222(b) (supplier to a firm whose workers are certified eligible to apply for TAA) and Section 246(a)(3)(A)(ii) of the Trade Act have been met.

TA–W–59,551; Advanced Casting, Inc., on-site Temp Depot, Central Falls, RI: June 1, 2005

TA–W–59,543C; Georgia-Pacific Corp., Fort James Operating Co., Wood & Fiber Supply Div., Houlton, ME: June 9, 2005

TA–W–59,543B; Georgia-Pacific Corp., Fort James Operating Co., Wood & Fiber Supply Div., Milford, ME: June 9, 2005

TA–W–59,543A; Georgia-Pacific Corp., Fort James Operating Co., Wood & Fiber Supply Div., Milo, ME: June 9, 2005

TA–W–59,543; Georgia-Pacific Corp., Fort James Operating Co., Wood & Fiber Supply Div., Portage, ME: June 9, 2005

TA–W–59,519; Pixley Richards Inc., Wyoming, MI: June 6, 2005

TA–W–59,410; Ameritex Yarn LLC, Burlington, NC: May 7, 2005

TA–W–59,336; Carolina Mills, Inc, Plant 12, Statesville, NC: May 4, 2005

TA–W–59,330; Carolina Mills, Inc., Plant No. 6, Lincolnton, NC: May 4, 2005

The following certifications have been issued. The requirements of Section 222(b) (downstream producer for a firm whose workers are certified eligible to apply for TAA based on increased imports from or a shift in production to Mexico or Canada) and Section 246(a)(3)(A)(ii) of the Trade Act have been met.

None.

Negative Determinations for Alternative Trade Adjustment Assistance

In the following cases, it has been determined that the requirements of 246(a)(3)(A)(ii) have not been met for the reasons specified.

The Department as determined that criterion (1) of Section 246 has not been met. Workers at the firm are 50 years of age or older.

TA–W–59,551; Advanced Casting, Inc., on-site Temp Depot, Central Falls, RI

TA–W–59,457; James and Sons Neckwear, Inc., Sewell, NJ

The Department as determined that criterion (2) of Section 246 has not been met. Workers at the firm possess skills that are easily transferable.

TA–W–59,431; Mag, Inc., Martinsville, IN

TA–W–59,369; 3M Precision Optics, Cincinnati, OH

TA–W–59,493; Titan Plastics Group, Tech Center, Portage, MI: November 6, 2005

The Department as determined that criterion (3) of Section 246 has not been met. Competition conditions within the workers' industry are not adverse.

None

Negative Determinations for Worker Adjustment Assistance and Alternative Trade Adjustment Assistance

In the following cases, the investigation revealed that the eligibility criteria for worker adjustment assistance have not been met for the reasons specified.

Since the workers of the firm are denied eligibility to apply for TAA, the workers cannot be certified eligible for ATAA.

The investigation revealed that criteria (a)(2)(A)(I.A.) and (a)(2)(B)(II.A.) (employment decline) have not been met.

None

The investigation revealed that criteria (a)(2)(A)(I.B.) (Sales or production, or both, did not decline) and (a)(2)(B)(II.B.) (shift in production to a foreign country) have not been met.

TA–W–59,565; GN Hearing Care North America, Bloomington, MN
TA–W–59,555; Michaels of Oregon, Meridian, ID

The investigation revealed that criteria (a)(2)(A)(I.C.) (increased imports) and (a)(2)(B)(II.B.) (shift in production to a foreign country) have not been met.

TA–W–59,561; Jones Apparel Group Inc., Bristol Production Departments, Bristol, PA
TA–W–59,552; Admiral Foundry, Formerly the Admiral Machine Co., Wadsworth, OH
TA–W–59,468; Intier Automotive Seating, Warren, OH
TA–W–59,435; Propex Fabrics, Inc., Seneca, SC
TA–W–59,434; Royal Cord, Inc., Thomaston, GA
TA–W–59,339; Northern Technologies Mfg. Corp., Pocahontas, AR
TA–W–59,228; North American Communications, Duncansville, PA

The investigation revealed that the predominate cause of worker separations is unrelated to criteria (a)(2)(A)(I.C.) (increased imports) and (a)(2)(B)(II.C) (shift in production to a foreign country).

TA–W–59,422; Unifi, Inc., Plant #4, Reidsville, NC
TA–W–59,307; Royal Oak Enterprises, Jacksonville, TX

The workers' firm does not produce an article as required for certification under Section 222 of the Trade Act of 1974.

TA–W–59,559; ExpressPoint Technology Services, Lincolnton, CA
TA–W–59,556; ATA Airlines, Inc., Reservations Call Center, Indianapolis, IN
TA–W–59,539; Safeco Insurance, IT Department, Seattle, WA
TA–W–59,536; Tokui, Inc., Coldwater, MI
TA–W–59,503; Bank of America, Consumer Systems and Support Technology Division, Utica, NY
TA–W–59,501; Firemen's Fund Insurance Company, Allianz AG, Novato, CA
TA–W–59,488; Industrial Design Construction & Aketon Technologies, Working at Hewlett Packard, Portland, OR
TA–W–59,408; WestPoint Stevens, Inc., Drakes Branch, VA

The investigation revealed that criteria of Section 222(b)(2) has not been met. The workers' firm (or subdivision) is not a supplier to or a downstream producer for a firm whose workers were certified eligible to apply for TAA.

None.

I hereby certify that the aforementioned determinations were issued during the month of June 2006. Copies of These determinations are available for inspection in Room C–5311, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, DC 20210 during normal business hours or will be mailed to persons who write to the above address.

Dated: July 10, 2006.

Richard Church,

Acting Director, Division of Trade Adjustment Assistance.

[FR Doc. E6–11219 Filed 7–14–06; 8:45 am]

BILLING CODE 4510–30–P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–56,428; TA–W–56,428B]

Magneti Marelli Powertrain USA, LLC, Sanford, NC; Including Employees of Magneti Marelli Powertrain USA, LLC, Sanford, NC; Working On-Site at the Harley Davidson Facility, Wauwatosa, WI; Amended Certification Regarding Eligibility To Apply for Worker Adjustment Assistance and Negative Determination Regarding Eligibility To Apply for Alternative Trade Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 U.S.C. 2273), and Section 246 of the Trade Act of 1974 (26 U.S.C. 2813), as amended, the Department of Labor issued a Certification Regarding Eligibility to Apply for Worker Adjustment Assistance and a Negative Determination Regarding Eligibility to Apply for Alternative Trade Adjustment Assistance on March 4, 2005, applicable to workers of Magneti Marelli Powertrain USA, LLC, Sanford, North Carolina. The notice was published in the **Federal Register** on April 1, 2005 (70 FR 16847).

At the request of a company official, the Department reviewed the certification for workers of the subject firm.

New information shows that worker separations have occurred involving employees of the Sanford, North Carolina facility of Magneti Marelli Powertrain USA, LLC working on-site at the Harley Davidson Facility, located in Wauwatosa, Wisconsin. Mr. Daniel Kaari, Mr. Scott Metcalf and Mr. David Jones provided customer support services for the production of engine management components and systems (e.g.—throttle bodies, fuel injectors, and carburetors) at the Sanford, North Carolina location of the subject firm.

Based on these findings, the Department is amending this certification to include employees of the Sanford, North Carolina facility of the subject firm working on-site at the Harley Davidson Facility located in Wauwatosa, Wisconsin.

The intent of the Department's certification is to include all workers of the Sanford, North Carolina location of the subject firm who was adversely affected by increased customer imports.

The amended notice applicable to TA–W–56,428 is hereby issued as follows:

All workers of Magneti Marelli Powertrain USA, LLC, Sanford, North Carolina (TA–W–56,428), and Magneti Marelli Powertrain USA, LLC, Michigan Office, Farmington Hills, Michigan (TA–W–56,428A), including employees of Magneti Marelli Powertrain USA, LLC, Sanford North Carolina working on-site at the Harley Davidson Facility, Wauwatosa, Wisconsin, who became totally or partially separated from employment on or after January 3, 2004, through March 4, 2007, are eligible to apply for adjustment assistance under Section 223 of the Trade Act of 1974.

I further determine that all workers of Magneti Marelli Powertrain USA, LLC, Sanford, North Carolina (TA–W–58,428), and Magneti Marelli Powertrain USA, LLC, Michigan Office, Farmington Hills, Michigan (TA–W–56,428A), including employees of Magneti Marelli Powertrain USA, LLC, Sanford, North Carolina working on-site at the Harley Davidson Facility, Wauwatosa, Wisconsin (TA–W–56,428B) are denied eligibility for alternative trade adjustment assistance under Section 246 of the Trade Act of 1974.

Signed at Washington, DC this 29th day of June 2006.

Elliott S. Kushner,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. E6–11224 Filed 7–14–06; 8:45 am]

BILLING CODE 4510–30–P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–59,490]

Pace Industries; Georgia Warehouse; Midland, GA; Amended Certification Regarding Eligibility to Apply for Worker Adjustment Assistance and Alternative Trade Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 U.S.C. 2273), and Section 246 of the Trade Act of 1974 (26 U.S.C. 2813), as amended, the Department of Labor issued a Certification Regarding Eligibility to

Apply for Worker Adjustment Assistance and a Negative Determination Regarding Eligibility to Apply for Alternative Trade Adjustment Assistance on June 16, 2006, applicable to workers of Pace Industries, Georgia Warehouse, Midland, Georgia. The notice will soon be published in the **Federal Register**.

At the request of the company official, the Department reviewed the denial of eligibility for workers of the subject firm to apply for Alternative Trade Adjustment Assistance. The workers are engaged in warehousing grill castings produced by Pace Industries, whose workers are certified eligible to apply for adjustment assistance.

The workers of the firm's Georgia Warehouse were denied eligibility to apply for Alternative Trade Adjustment Assistance because a significant number of workers were not 50 years of age or older. The company official has provided new information with respect to the number of workers over age 50. The Department has determined that this revised number of workers meets the significant number of workers requirement. Additionally, the investigation determined that the workers of the subject firm possess skills that are not easily transferable and competitive conditions in the industry are adverse.

Accordingly, the Department is amending the determination to extend eligibility to apply for alternative trade adjustment assistance to the workers of Pace Industries, Georgia Warehouse, Midland, Georgia.

The amended notice applicable to TA–W–59,490 is hereby issued as follows:

All workers of Pace Industries, Georgia Warehouse, Midland, Georgia, who became totally or partially separated from employment on or after May 30, 2005 through June 16, 2008, are eligible to apply for adjustment assistance under Section 223 of the Trade Act of 1974, and are also eligible to apply for alternative trade adjustment assistance under Section 246 of the Trade Act of 1974.

Signed in Washington, DC, this 7th day of July, 2006.

Linda G. Poole,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. E6–11218 Filed 7–14–06; 8:45 am]

BILLING CODE 4510–30–P

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice (06–045)]

Aerospace Safety Advisory Panel 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 forthcoming meeting of the Aerospace Safety Advisory Panel.

DATES: Friday, August 18, 2006, 1 p.m. to 3 p.m. Eastern Daylight Time.

ADDRESSES: 100 Spaceport Way, Cape Canaveral, Florida 32920 (Florida Space Authority).

FOR FURTHER INFORMATION CONTACT: Mr. John D. Marinaro, Aerospace Safety Advisory Panel Executive Director, National Aeronautics and Space Administration, Washington, DC 20546, (202) 358–0914.

SUPPLEMENTARY INFORMATION: The Aerospace Safety Advisory Panel will hold its quarterly meeting. This discussion is pursuant to carrying out its statutory duties for which the Panel reviews, identifies, evaluates, and advises on those program activities, systems, procedures, and management activities that can contribute to program risk. Priority is given to those programs that involve the safety of human flight. The agenda will include institutional and program safety policy, procedure and administration related to Aerospace Safety Advisory Panel fact-finding events at the Kennedy Space Center (KSC). Other major subjects will likely include NASA organizational areas of interest as they relate to safety (*e.g.* Technical Authority, NASA's response to CAIB recommendations, NASA Safety Culture, etc.).

The meeting will be open to the public up to the seating capacity of the room (40). Seating will be on a first-come basis. Please contact the ASAP Office at (202) 358–0914 at least 48 hours in advance to reserve a seat. Visitors will be requested to sign a visitor's register. Photographs will only be permitted during the first 10 minutes of the meeting. During the first 30 minutes of the meeting, members of the public may make a 5-minute verbal presentation to the Panel on the subject of safety in NASA. To do so, please contact Mr. John Marinaro on (202) 358–0914 at least 24 hours in advance. Any member of the public is permitted to file a written statement with the Panel at the time of the meeting. Verbal presentations and written comments should be limited to the subject of safety in NASA.

Dated: July 7, 2006.

P. Diane Rausch,

Advisory Committee Management Officer, National Aeronautics and Space Administration.

[FR Doc. E6–11150 Filed 7–14–06; 8:45 am]

BILLING CODE 7510–13–P

NATIONAL CREDIT UNION ADMINISTRATION

Notice of Meeting

TIME AND DATE: 10 a.m., Thursday, July 20, 2006.

PLACE: Board Room, 7th Floor, Room 7047, 1775 Duke Street, Alexandria, VA 22314–3428.

STATUS: Open.

MATTERS TO BE CONSIDERED: 1. Request from American Eagle Federal Credit Union to Convert to a Community Charter.

2. Request from Aerospace Credit Union to Convert to a Federal Community Charter.

3. Quarterly Insurance Fund Report.

4. Reprogramming of NCUA's Operating Budget for 2006.

5. Proposed Rule: Part 703 of NCUA's Rules and Regulations, Permissible Investments for Federal Credit Unions.

Final Rule: Section 701.21(c)(7) of NCUA's Rules and Regulations, Interest Rate Ceiling.

7. Interest Rate Ceiling Determination by NCUA's Board under 12 U.S.C. 1757(5).

RECESS: 11:15 a.m.

TIME AND DATE: 11:30 a.m., Thursday, July 20, 2006.

PLACE: Board Room, 7th Floor, Room 7047, 1775 Duke Street, Alexandria, VA 22314–3428.

STATUS: Closed.

MATTERS TO BE CONSIDERED: 1. Merger under Part 708a of NCUA's Rules and Regulations. Closed pursuant to Exemption (8).

2. Part 703 of NCUA's Rules and Regulations, Pilot Program Request. Closed pursuant to Exemption (8).

3. Administrative Action under Section 206(g) of the Federal Credit Union Act. Closed pursuant to Exemptions (6) and (8).

Mary Rupp,

Secretary of the Board.

[FR Doc. 06–6301 Filed 7–13–06; 3:04 pm]

BILLING CODE 7535–01–M

NUCLEAR REGULATORY COMMISSION

Agency Information Collection Activities: Submission for the Office of Management and Budget (OMB) Review; Comment Request

AGENCY: U. S. Nuclear Regulatory Commission (NRC).

ACTION: Notice of the OMB review of information collection and solicitation of public comment.

SUMMARY: The NRC has recently submitted to OMB for review the following proposal for the collection of information under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35). The NRC hereby informs potential respondents that an agency may not conduct or sponsor, and that a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number.

1. *Type of submission, new, revision, or extension:* Revision.

2. *The title of the information collection:* "Reports Concerning Possible Non-Routine Emergency Generic Problems".

3. *The form number if applicable:* N/A.

4. *How often the collection is required:* On occasion.

5. *Who will be required or asked to report:* Nuclear power reactor licensees, research and test reactors, and materials applicants and licensees.

6. *An estimate of the number of annual responses:* 1,032 responses (832 nuclear power reactor licensees; 200 materials applicants and licensees).

7. *The estimated number of annual respondents:* 204 (104 nuclear power reactor licensees; 100 materials applicants and licensees).

8. *An estimate of the total number of hours needed annually to complete the requirement or request:* 369,440 (349,440 for nuclear power reactor licensees [8 responses × 420 hrs/response × 104 licensees] and 20,000 for materials applicants and licensees [2 responses × 100 hrs/response × 100 licensees]).

9. *An indication of whether Section 3507(d), Pub. L. 104–13 applies:* N/A

10. *Abstract:* NRC is requesting approval authority to collect information concerning possible non-routine generic problems which would require prompt action from NRC to preclude potential threats to public health and safety.

A copy of the final supporting statement may be viewed free of charge at the NRC Public Document Room, One White Flint North, 11555 Rockville Pike, Room O–1 F21, Rockville, MD 20852. OMB clearance requests are available at the NRC worldwide Web site: *http://www.nrc.gov/public-involve/doc-comment/omb/index.html.* The document will be available on the NRC home page site for 60 days after the signature date of this notice.

Comments and questions should be directed to the OMB reviewer listed below by August 16, 2006. Comments received after this date will be considered if it is practical to do so, but assurance of consideration cannot be given to comments received after this date. John A. Asalone, Office of Information and Regulatory Affairs (3150–0012), NEOB–10202, Office of Management and Budget, Washington, DC 20503.

Comments can also be e-mailed to *John_A._Asalone@omb.eop.gov* or submitted by telephone at (202) 395–4650.

The NRC Clearance Officer is Brenda Jo. Shelton, 301–415–7233.

Dated at Rockville, Maryland, this 29th day of June, 2006.

For the Nuclear Regulatory Commission.

Brenda Jo. Shelton,

NRC Clearance Officer, Office of Information Services.

[FR Doc. E6–11212 Filed 7–14–06; 8:45 am]

BILLING CODE 7590–01–P

OFFICE OF PERSONNEL MANAGEMENT

Excepted Service

AGENCY: Office of Personnel Management (OPM).

ACTION: Notice.

SUMMARY: This gives notice of OPM decisions granting authority to make appointments under Schedules A, B, and C in the excepted service as required by 5 CFR 6.6 and 213.103.

FOR FURTHER INFORMATION CONTACT: David Guilford, Center for Leadership and Executive Resources Policy, Division for Strategic Human Resources Policy, 202–606–1391.

SUPPLEMENTARY INFORMATION: Appearing in the listing below are the individual authorities established under Schedules A, B, and C between May 1, 2006 and May 31, 2006. Future notices will be published on the fourth Tuesday of each month, or as soon as possible thereafter. A consolidated listing of all authorities as of June 30 is published each year.

Schedule A

No Schedule A appointments were approved for May 2006.

Schedule B

No Schedule B appointments were approved for May 2006.

Schedule C

The following Schedule C appointments were approved during May 2006:

Section 213.3303 Executive Office of the President

Office of Management and Budget

BOGS00153 Director of Operations to the Director Office of Management and Budget. Effective May 25, 2006.

BOGS60155 Special Assistant to the Director Office of Management and Budget. Effective May 25, 2006.

Office of National Drug Control Policy

QQGS60090 Public Affairs Specialist to the Counselor to the Deputy Director. Effective May 17, 2006.

Section 213.3304 Department of State

DSGS60947 Staff Assistant (Visits) to the Supervisory Protocol Officer (Visits). Effective May 4, 2006.

DSGS61085 Senior Advisor to the Assistant Secretary, Bureau of Educational and Cultural Affairs. Effective May 4, 2006.

DSGS61086 Public Affairs Specialist to the Director, Bureau of International Narcotics and Law Enforcement. Effective May 4, 2006.

DSGS61087 Legislative Management Officer to the Assistant Secretary for Legislative and Intergovernmental Affairs. Effective May 4, 2006.

DSGS61079 Staff Assistant to the Coordinator for International Information Programs. Effective May 9, 2006.

DSGS61080 Staff Assistant to the Under Secretary for Public Diplomacy and Public Affairs. Effective May 9, 2006.

DSGS60747 Staff Assistant to the Under Secretary for Public Diplomacy and Public Affairs. Effective May 17, 2006.

DSGS61083 Public Affairs Specialist to the Assistant Secretary for Public Affairs. Effective May 18, 2006.

DSGS61091 Special Assistant to the Under Secretary for Public Diplomacy and Public Affairs. Effective May 25, 2006.

Section 213.3305 Department of the Treasury

DYGS00470 Senior Advisor to the Deputy Assistant Secretary (Public Liaison, Strategic Planning and Business Development). Effective May 12, 2006.

DYGS00471 Public and Legislative Affairs Manager to the Director Community Development Financial Institutions. Effective May 18, 2006.

DYGS60418 Special Assistant to the Executive Secretary. Effective May 18, 2006.

Section 213.3306 Department of Defense

DDGS16933 Special Assistant to the Deputy Under Secretary of Defense (Acquisition and Technology). Effective May 4, 2006.

DDGS16943 Administrative Assistant to the Director, Department of Defense Office of Legislative Counsel. Effective May 12, 2006.

DDGS16941 Special Assistant to the Principal Deputy Assistant Secretary of Defense (Legal Affairs). Effective May 15, 2006.
DDGS16944 Public Affairs Specialist to the Assistant Secretary of Defense (Public Affairs). Effective May 15, 2006.
DDGS16940 Research Assistant to the Speechwriter, Office of the Assistant Secretary of Defense (Public Affairs). Effective May 19, 2005.
DDGS16948 Special Assistant to the Principal Deputy Under Secretary of Defense (Comptroller). Effective May 30, 2006.
DDGS16951 Defense Fellow to the Special Assistant to the Secretary of Defense for White House Liaison. Effective May 30, 2006.

Section 213.3308 Department of the Navy

DNGS60075 Confidential Assistant to the Assistant Secretary of the Navy (Financial Management and Comptroller). Effective May 16, 2006.

Section 213.3309 Department of the Air Force

DFGS60046 Budget Analyst to the Assistant Secretary (Financial Management and Comptroller). Effective May 25, 2006.

Section 213.3310 Department of Justice

DJGS00291 Deputy Chief Privacy and Civil Liberties Officer and Counsel to the Deputy Attorney General. Effective May 15, 2006.
DJGS00328 Associate Director to the Director, Office of Intergovernmental and Public Liaison. Effective May 18, 2006.
DJGS00054 Counsel to the Assistant Attorney General (Legal Policy). Effective May 25, 2006.
DJGS00183 Counsel to the Deputy Attorney General. Effective May 25, 2006.

Section 213.3311 Department of Homeland Security

DMGS00512 Advance Representative to the Advance Representative, Office of the Chief of Staff. Effective May 1, 2006.
DMGS00513 Advisor to the Assistant Secretary for Grants and Training to the Executive Director,

Office of Grants and Training. Effective May 1, 2006.

DMGS00504 Special Assistant to the Assistant Secretary for Infrastructure Protection. Effective May 4, 2006.
DMGS00516 Confidential Assistant to the Executive Secretary. Effective May 4, 2006.
DMGS00514 Confidential Assistant to the Assistant Secretary, Immigration and Customs Enforcement. Effective May 5, 2006.
DMGS00520 Confidential Assistant to the White House Liaison and Advisor. Effective May 10, 2006.
DMGS00524 Press Assistant to the Assistant Secretary for Public Affairs. Effective May 10, 2006.
DMGS00526 Deputy White House Liaison to the White House Liaison and Advisor. Effective May 12, 2006.
DMGS00521 Press Assistant to the Assistant Secretary for Public Affairs. Effective May 16, 2006.
DMGS00523 Special Assistant to the Assistant Secretary, Immigration and Customs Enforcement. Effective May 16, , 2006.
DMGS00525 Policy Assistant to the Deputy Director, Federal Emergency Management Agency. Effective May 16, 2006.
DMGS00527 Assistant Director for Legislative Affairs to the Assistant Secretary for Legislative Affairs. Effective May 16, 2006.
DMGS00530 Deputy Press Secretary to the Assistant Secretary for Public Affairs. Effective May 16, 2006.
DMGS00522 Assistant Press Secretary to the Assistant Secretary for Public Affairs. Effective May 18, 2006.
DMGS00528 Special Assistant to the Chief of Staff to the General Counsel and Associate General Counsel for Science and Technology. Effective May 25, 2006.
DMGS00529 Director of Legislative Affairs for Border, Transportation, and Immigration Security to the Assistant Secretary for Legislative Affairs. Effective May 25, 2006.
DMOT00519 Special Assistant to the Assistant Secretary, Transportation Security Administration. Effective May 31, 2006.

Section 213.3312 Department of the Interior

DIGS01068 Special Assistant to the Secretary for Alaska to the Senior Advisor to the Secretary for Alaskan Affairs. Effective May 18, 2006.
DIGS01067 Special Assistant—Scheduling and Advance to the Director—Scheduling and Advance. Effective May 25, 2006.
DIGS01069 Special Assistant to the Chief of Staff. Effective May 25, 2006.
DIGS01064 Hispanic Media Outreach Coordinator to the Director, Office of Communications. Effective May 30, 2006.

Section 213.3313 Department of Agriculture

DAGS00842 Special Assistant to the Deputy Assistant Secretary for Administration. Effective May 12, 2006.

Section 213.3314 Department of Commerce

DCGS00275 Confidential Assistant to the Director, Office of Business Liaison. Effective May 11, 2006.
DCGS00593 Senior Advisor to the Coordinator for International Intellectual Property Enforcement. Effective May 12, 2006.
DCGS00346 Confidential Assistant to the Director Office of White House Liaison. Effective May 25, 2006.
DCGS00452 Confidential Assistant to the Deputy Assistant Secretary for Legislative and Intergovernmental Affairs. Effective May 25, 2006.
DCGS00540 Confidential Assistant to the Chief of Staff. Effective May 31, 2006.

Section 213.3315 Department of Labor

DLGS60179 Senior Advisor to the Assistant Secretary for Employment Standards. Effective May 11, 2006.
DLGS60135 Special Assistant to the Director, 21st Century Office and Deputy Assistant Secretary for Intergovernmental Affairs. Effective May 12, 2006.
DLGS60121 Special Assistant to the Director of Operations. Effective May 25, 2006.

Section 213.3316 Department of Health and Human Services

DHGS60485 Director of Communications to the Assistant Secretary, Health. Effective May 4, 2006.
DHGS60240 Regional Director, Dallas, Texas, Region VI to the Director of Intergovernmental Affairs. Effective May 8, 2006.
DHGS60034 Senior Advisor to the Administrator, Substance Abuse and Mental Health Service. Effective May 16, 2006.

Section 213.3317 Department of Education

DBGS00522 Confidential Assistant to the Chief of Staff. Effective May 4, 2006.
DBGS00523 Director, White House Liaison to the Chief of Staff. Effective May 4, 2006.
DBGS00517 Confidential Assistant to the Assistant Secretary for Elementary and Secondary Education. Effective May 5, 2006.
DBGS00524 Special Assistant to the Chief of Staff to the Deputy Secretary. Effective May 5, 2006.
DBGS00518 Special Assistant to the Director, Regional Services. Effective May 8, 2006.
DBGS00521 Deputy Chief of Staff for Strategy to the Chief of Staff. Effective May 9, 2006.
DBGS00525 Confidential Assistant to the Executive Assistant. Effective May 10, 2006.
DBGS00531 Press Secretary to the Assistant Secretary, Office of Communications and Outreach. Effective May 10, 2006.
DBGS00527 Confidential Assistant to the Director, Scheduling and Advance Staff. Effective May 12, 2006.
DBGS00532 Special Assistant to the Director, Office of Educational Technology. Effective May 12, 2006.
DBGS00533 Special Assistant to the Director, White House Liaison. Effective May 12, 2006.
DBGS00534 Special Assistant to the Under Secretary. Effective May 12, 2006.
DBGS00528 Chief of Staff to the Assistant Deputy Secretary for Innovation and Improvement. Effective May 18, 2006.
DBGS00526 Confidential Assistant to the Executive Director. Effective May 19, 2006.
DBGS00536 Confidential Assistant to the Deputy Assistant Secretary. Effective May 19, 2006.

Section 213.3318 Environmental Protection Agency

EPGS06011 Program Specialist to the Assistant Administrator for Environmental Information. Effective May 17, 2006.

Section 213.3325 United States Tax Court

JCGS60044 Secretary (Confidential Assistant) to the Chief Judge. Effective May 1, 2006.

JCGS60063 Secretary (Confidential Assistant) to the Chief Judge. Effective May 1, 2006.

JCGS60079 Trial Clerk to the Chief Judge. Effective May 1, 2006.

Section 213.3331 Department of Energy

DEGS00520 Policy Advisor to the Deputy Assistant Secretary for Natural Gas and Petroleum Technology. Effective May 11, 2006.

DEGS00514 Special Assistant to the Assistant Secretary for Environment, Safety and Health. Effective May 16, 2006.

Section 213.3346 Selective Service System

SSGS03373 Administrative Assistant to the Director, Selective Service System. Effective May 5, 2006.

Section 213.3348 National Aeronautics and Space Administration

NNGS00171 Senior Legislative Affairs Program Specialist to the Assistant Administrator for Legislative Affairs. Effective May 17, 2006.

NNGS00172 Congressional Relations Specialist to the Assistant Administrator for Legislative Affairs. Effective May 30, 2006.

Section 213.3356 Commission on Civil Rights

CCGS60031 General Counsel to the Staff Director. Effective May 25, 2006.

Section 213.3384 Department of Housing and Urban Development

DUGS60151 Staff Assistant to the Assistant Secretary for Public Affairs. Effective May 4, 2006.

DUGS60385 Staff Assistant to the Assistant Secretary for Public Affairs. Effective May 8, 2006.

DUGS60411 Special Assistant to the General Counsel. Effective May 10, 2006.

DUGS60373 Media Outreach Specialist to the Assistant Secretary for Public Affairs. Effective May 31, 2006.

Section 213.3394 Department of Transportation

DTGS60376 Director, Office of Small and Disadvantaged Business Utilization to the Secretary. Effective May 10, 2006.

Authority: 5 U.S.C. 3301 and 3302; E.O. 10577, 3 CFR 1954–1958 Comp., p. 218.

Office of Personnel Management.

Dan G. Blair,

Deputy Director.

[FR Doc. E6–11233 Filed 7–14–06; 8:45 am]

BILLING CODE 6325–39–P

SECURITIES AND EXCHANGE COMMISSION

Proposed Collection; Comment Request

Upon written request, copies available from: Securities and Exchange Commission, Office of Filings and Information Services, Washington, DC 20549.

Extension:

Rule 12d1–1; SEC File No. 270–526; OMB Control No. 3235–0584.

Notice is hereby given that pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*) the Securities and Exchange Commission (the "Commission") is soliciting comments on the collections of information summarized below. The Commission plans to submit these existing collections of information to the Office of Management and Budget ("OMB") for extension and approval.

Under current law, an investment company ("fund") is limited in the amount of securities the fund ("acquiring fund") can acquire from another fund ("acquired fund"). In general under the Investment Company Act of 1940 (15 U.S.C. 80a) (the "Investment Company Act" or "Act"), a registered fund (and companies it controls) cannot: (i) Acquire more than three percent of another fund's securities; (ii) invest more than five percent of its own assets in another fund; or (iii) invest more than ten percent of its own assets in other funds in the aggregate.[1] In addition, a registered open-end fund, its principal underwriter, and any registered broker or dealer cannot sell that fund's shares to another fund if, as a result: (i) The acquiring fund (and any companies it controls) owns more than three percent of the acquired fund's stock; or (ii) all acquiring funds (and companies they control) in the aggregate own more than ten percent of the acquired fund's stock.[2] Rule 12d1–1 under the Act (17 CFR 270.12d1–1) provides an exemption from these limitations for "cash sweep" arrangements, in which a fund invests all or a portion of its available cash in a money market fund rather than directly in short-term instruments. An acquiring fund relying on the exemption may not pay a sales load, distribution fee, or service fee on acquired fund shares, or if it does, the acquiring fund's investment adviser must waive a sufficient amount of its advisory fee to offset the cost of the loads or distribution fees.[3] The acquired fund may be a fund in the same fund complex or in a different fund complex. In addition to providing an exemption from section 12(d)(1) of the Act, the rule provides exemptions from section 17(a) and Rule 17d–1, which restrict a fund's ability to enter into transactions and joint arrangements with affiliated persons.[4] These provisions could otherwise prohibit an acquiring fund from investing in a money market fund in the same fund complex,[5] or prohibit a fund that acquires five percent or more of the securities of a money market fund in another fund complex from making any additional investments in the money market fund.[6]

The rule also permits a registered fund to rely on the exemption to invest in an unregistered money market fund that limits its investments to those in which a registered money market fund may invest under Rule 2a 7 under the Act (17 CFR 270.2a 7), and undertakes to comply with all the other provisions of Rule 2a 7. In addition the acquiring fund must reasonably believe that the unregistered money market fund (i) Operates in compliance with Rule 2a 7, (ii) complies with sections 17(a), (d), (e), 18, and 22(e) of the Act[7] as if it were a registered open-end fund, (iii) has adopted procedures designed to ensure that it complies with these statutory provisions, (iv) maintains the records required by Rules 31a 1(b)(2)(ii), 31a 1(b)(2)(iv), and 31a–1(b)(9);[8] and (v) preserves permanently, the first two

[1] *See* 15 U.S.C. 80a–12(d)(1)(A). If an acquiring fund is not registered, these limitations apply only with respect to the acquiring fund's acquisition of registered funds.

[2] *See* 15 U.S.C. 80a–12(d)(1)(B).

[3] *See* Rule 12d1–1(b)(1).

[4] *See* 15 U.S.C. 80a–17(a), 15 U.S.C. 80a–17(d); 17 CFR 270.17d–1.

[5] An affiliated person of a fund includes any person directly or indirectly controlling, controlled by, or under common control with such other person. *See* 15 U.S.C. 80a–2(a)(3)(C) (definition of "affiliated person"). Most funds today are organized by an investment adviser that advises or provides administrative services to other funds in the same complex. Funds in a fund complex are generally under common control of an investment adviser or other person exercising a controlling influence over the management or policies of the funds. *See* 15 U.S.C. 80a–2(a)(9). Not all advisers control funds they advise. The determination of whether a fund is under the control of its adviser, officers, or directors depends on all the relevant facts and circumstances. *See* Investment Company Mergers, Investment Company Act Release No. 25259 (Nov. 8, 2001) [66 FR 57602 (Nov. 15, 2001)], at n.11. To the extent that an acquiring fund in a fund complex is under common control with a money market fund in the same complex, the funds would rely on the Rule's exemptions from section 17(a) and Rule 17d–1.

[6] *See* 15 U.S.C. 80a–2(a)(3)(A), (B).

[7] *See* 15 U.S.C. 80a–17(a), 15 U.S.C. 80a–17(d), 15 U.S.C. 80a–17(e), 15 U.S.C. 80a–18, 15 U.S.C. 80a–22(e).

[8] *See* 17 CFR 270.31a–1(b)(2)(ii), 17 CFR 270.31a–1(b)(2)(iv), 17 CFR 270.31a–1(b)(9).

years in an easily accessible place, all books and records required to be made under these rules.

Rule 2a–7 contains certain collection of information requirements. An unregistered money market fund that complies with Rule 2a 7 would be subject to these collection of information requirements. In addition, the recordkeeping requirements under Rule 31 with which the acquiring fund reasonably believes the unregistered money market fund complies are collections of information for the unregistered money market fund. By allowing funds to invest in registered and unregistered money market funds, Rule 12d1–1 is intended to provide funds greater options for cash management. In order for a registered fund to rely on the exemption to invest in an unregistered money market fund, the unregistered money market fund must comply with certain collection of information requirements for registered money market funds. These requirements are intended to ensure that the unregistered money market fund has established procedures for collecting the information necessary to make adequate credit reviews of securities in its portfolio, as well as other recordkeeping requirements that will assist the acquiring fund in overseeing the unregistered money market fund (and Commission staff in its examination of the unregistered money market fund's adviser).

Commission staff estimates that registered funds currently invest in 40 unregistered money market funds in excess of the statutory limits under an exemptive order issued by the Commission, and will invest in approximately 6 new unregistered money market funds each year.[9] Staff estimates that each of these unregistered money market funds spends 1220 hours to perform the record of credit risk analysis and other determinations annually, and in the first year after the rule's adoption, each will spend 21 hours to implement the board procedures.[10] Finally, Commission staff estimates that 10 unregistered money market funds spends 4.5 hours to review and amend procedures annually. The estimated total of annual responses under Rule 12d1–1 is 57,131.[11]

Commission staff estimates that in addition to the costs described in section 12, unregistered money market funds will incur costs to preserve records, as required under Rule 2a–7. These costs will vary significantly for individual funds, depending on the amount of assets under fund management and whether the fund preserves its records in a storage facility in hard copy or has developed and maintains a computer system to create and preserve compliance records. In its Rule 2a–7 submission, Commission staff estimated that the amount an individual money market fund may spend ranged from $100 per year to $300,000. We have no reason to believe the range would be different for unregistered money market funds. As noted before, we have no information on the amount of assets managed by unregistered money market funds. Accordingly, Commission staff has estimated that an unregistered money market fund in which registered funds would invest in reliance on Rule 12d1–1 would have, on average, $376.4 million in assets under management.[12] Based on a cost of $0.0000005 per dollar of assets under management for medium-sized funds, the staff estimates compliance with Rule 2a–7 would cost these types of unregistered money market funds $8,000 annually.[13] Commission staff estimates that unregistered money market funds will not incur any capital costs to create computer programs for maintaining and preserving compliance records for Rule 2a–7.[14]

The collections of information required for unregistered money market funds by Rule 12d1–1 are necessary in order for acquiring funds to be able to obtain the benefits described above. Notices to the Commission will not be kept confidential. 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 control number.

Written 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 will 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 collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. Consideration will be given to comments and suggestions submitted in writing within 60 days of this publication.

Please direct your written comments to R. Corey Booth, Director/Chief Information Officer, Securities and Exchange Commission, C/O Shirley Martinson, 6432 General Green Way, Alexandria, Virginia 22312 or send an e-mail to: *PRA_Mailbox@sec.gov.*

Dated: June 23, 2006.

Jill M. Peterson,

Assistant Secretary.

[FR Doc. E6–11229 Filed 7–14–06; 8:45 am]

BILLING CODE 8010–01–P

[9] This estimate is based on the number of applications filed with the Commission in 2005. This estimate may be understated because applicants generally do not identify the name or number of unregistered money market funds in which registered funds intend to invest, and each application also applies to unregistered money market funds to be organized in the future.

[10] The Commission adopted Rule 12d1–1 on June 20, 2006. See Fund of Funds Investments, Investment Company Act Release No. 27399 (June 20, 2006).

[11] This estimate is based on the following calculation: (40 × 1220) + (6 × 1220) + (40 × 21) + (6 × 21) + (10 × 4.5) = 57,131.

[12] This estimate is based on the average of assets under management of medium-sized registered money market funds ($50 million to $999 million).

[13] This estimate was based on the following calculation: 46 unregistered money market funds × $357.7 million in assets under management × $0.0000005 = $8,227. The estimate of cost per dollar of assets is the same as that used for medium-sized funds in the Rule 2a–7 submission.

[14] This estimate is based on information Commission staff obtained in its survey for the Rule 2a–7 submission. Of the funds surveyed, no medium-sized funds incurred this type of capital cost. The funds either maintained record systems using a program the fund would be likely to have in the ordinary course of business (such as Excel) or the records were maintained by the fund's custodian.

SECURITIES AND EXCHANGE COMMISSION

Submission for OMB Review; Comment Request

Upon Written Request, Copies Available From: Securities and Exchange Commission, Office of Filings and Information Services, Washington, DC 20549.

Extension:

Rule 17a–6, SEC File No. 270–433, OMB Control No. 3235–0489.

Notice is hereby given that pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), the Securities and Exchange Commission ("Commission") has submitted to the Office of Management and Budget a request for extension of the previously approved collection of information discussed below.

Rule 17a–6 (17 CFR 240.17a–6) under the Securities Exchange Act of 1934 (15 U.S.C. 78a *et seq.*) permits national securities exchanges, national securities associations, registered clearing agencies, and the Municipal Securities Rulemaking Board (collectively, "SROs") to destroy or convert to microfilm or other recording media

records maintained under Rule 17a–1, if they have filed a record destruction plan with the Commission and the Commission has declared such plan effective.

There are currently 22 SROs: 10 national securities exchanges, 1 national securities association, 10 registered clearing agencies, and the Municipal Securities Rulemaking Board. These respondents file no more than one record destruction plan per year, which requires approximately 160 hours for each new plan. However, the Commission is discounting that figure given its experience to date with the number of plans that have been filed. Further, any existing SRO record destructions plan may require revision, over time, in response to, for example, changes in document retention technology, which the Commission estimates will take much less than the 160 hours estimated for a new plan. Thus, the total annual compliance burden is estimated to be 60 hours, based on an estimated two respondents per year. The approximate cost per hour is $250, resulting in a total cost of compliance for these respondents of $15,000 per year (60 hours @ $250 per hour).

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 control number.

General comments regarding the estimated burden hours should be directed to the following persons: (i) The Desk Officer for the Securities and Exchange Commission, Office of Information and Regulatory Affairs, Office of Management and Budget, Room 10102, New Executive Office Building, Washington, DC 20503 or by sending an e-mail to *David_Rostker@omb.eop.gov* and (ii) R. Corey Booth, Director/Chief Information Officer, Securities and Exchange Commission, c/o Shirley Martinson, 6432 General Green Way, Alexandria, VA 22312 or by sending an e-mail to *PRA_Mailbox@sec.gov*. Comments must be submitted within 30 days of this notice.

Dated: July 10, 2006.

Jill M. Peterson,

Assistant Secretary.

[FR Doc. E6–11230 Filed 7–14–06; 8:45 am]

BILLING CODE 8010–01–P

SECURITIES AND EXCHANGE COMMISSION

Submission for OMB Review; Comment Request

Upon written request, copies available from: Securities and Exchange Commission, Office of Filings and Information Services, Washington, DC 20549.

Extension:

Rule 489 and Form F–N; SEC File No. 270–361; OMB Control No. 3235–0411.

Notice is hereby given that, pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), the Securities and Exchange Commission ("Commission") has submitted to the Office of Management and Budget requests for extension of the previously approved collections of information discussed below:

- Rule 489 (17 CFR 230.489) under the Securities Act of 1933 (15 U.S.C. 77a *et seq.*), Filing of Form by Foreign Banks and Insurance Companies and Certain of Their Holding Companies and Finance Subsidiaries; and Form F–N, Appointment of Agent for Service of Process by Foreign Banks and Foreign Insurance Companies and Certain of Their Holding Companies and Finance Subsidiaries Making Public Offerings of Securities in the United States

Rule 489 (17 CFR 230.489) under the Securities Act of 1933 (15 U.S.C. 77a *et seq.*) requires foreign banks and foreign insurance companies and holding companies and finance subsidiaries of foreign banks and foreign insurance companies that are exempted from the definition of "investment company" by virtue of Rules 3a–1, 3a–5, and 3a–6 under the Investment Company Act of 1940 (15 U.S.C. 80a–1 *et seq.*) to file Form F–N under the Securities Act of 1933 to appoint an agent for service of process when making a public offering of securities in the United States. Approximately seven entities are required by Rule 489 to file Form F–N, which is estimated to require an average of one hour to complete. The estimated annual burden of complying with the rule's filing requirement is approximately eleven hours, as some of the entities submitted multiple filings.

The estimates of average burden hours are made solely for the purposes of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*) and are not derived from a comprehensive or even representative survey or study of the cost of Commission rules and forms.

The collection of information under Form F–N is mandatory. The information provided by the Form is not kept confidential. 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 control number.

General comments regarding the above information should be directed to the following persons: (i) Desk officer for the Securities and Exchange Commission, Office of Information and Regulatory Affairs, Office of Management and Budget, Room 10102, New Executive Office Building, Washington, DC 20503, or e-mail to: *David_Rostker@omb.eop.gov;* and (ii) R. Corey Booth, Director/Chief Information Officer, Securities and Exchange Commission, C/O Shirley Martinson 6432 General Green Way, Alexandria, Virginia 22312, or send an e-mail to: *PRA_Mailbox@sec.gov*. Comments must be submitted to OMB within 30 days of this notice.

Dated: July 10, 2006.

Jill M. Peterson,

Assistant Secretary.

[FR Doc. E6–11231 Filed 7–14–06; 8:45 am]

BILLING CODE 8010–01–P

SECURITIES AND EXCHANGE COMMISSION

Proposed Collection; Comment Request

Upon written request, copies available from: Securities and Exchange Commission, Office of Filings and Information Services, Washington, DC 20549.

Extension:

Rule 17a–25; SEC File No. 270–482; OMB Control No. 3235–0540.

Notice is hereby given that pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), the Securities and Exchange Commission ("Commission") is soliciting comments on the collection of information summarized below. The Commission plans to submit this existing collection of information to the Office of Management and Budget for extension and approval.

Rule 17a–25 (17 CFR 240.17a–25) requires registered broker-dealers to electronically submit securities transaction information, including identifiers for prime brokerage arrangements, average price accounts, and depository institutions, in a standardized format when requested by the Commission staff. In addition, the rule also requires broker-dealers to submit, and keep current, contact person information for electronic blue sheets ("EBS") requests. The Commission uses the information for

enforcement inquiries or investigations and trading reconstructions, as well as for inspections and examinations.

The Commission estimates that it sends approximately 27,000 electronic blue sheet requests per year. Accordingly, the annual aggregate hour burden for electronic and manual response firms is estimated to be 3,564 hours and 405 hours, respectively. In addition, the Commission estimates that it will request 1,400 broker-dealers to supply the contact information identified in Rule 17a–25(c) and estimates the total aggregate burden hours to be 350. Thus, the annual aggregate burden for all respondents to the collection of information requirements of Rule 17a–25 is estimated at 4,319 hours.

Written 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. Consideration will be given to comments and suggestions submitted in writing within 60 days of this publication.

Comments should be directed to (i) the Desk Officer for the Securities and Exchange Commission, Office of Information and Regulatory Affairs, Office of Management and Budget, Room 10102, New Executive Office Building, Washington, DC, 20503 or by sending an e-mail to: *David_Rostker@omb.eop.gov*; and (ii) R. Corey Booth, Director/Chief Information Office, Securities and Exchange Commission, C/O Shirley Martinson, 6432 General Green Way, Alexandria, Virginia 22312 or send an e-mail to: *PRA_Mailbox@sec.gov*. Comments must be submitted to OMB within 60 days of this notice.

Dated: July 10, 2006.

Jill M. Peterson,

Assistant Secretary.

[FR Doc. E6–11232 Filed 7–14–06; 8:45 am]

BILLING CODE 8010–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–54123; File No. SR–CBOE–2006–65]

Self-Regulatory Organizations; Chicago Board Options Exchange, Incorporated; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Permit the Listing and Trading of Quarterly Options Series

July 11, 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 July 10, 2006, the Chicago Board Options Exchange, Incorporated ("Exchange" or "CBOE") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I and II below, which Items have been substantially prepared by the Exchange. CBOE has designated this proposal as non-controversial under Section 19(b)(3)(A)(iii) of the Act[3] and Rule 19b–4(f)(6) thereunder,[4] 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 Substance of the Proposed Rule Change

The Exchange proposes to amend its rules to permit the listing and trading of quarterly options series.[5] The text of the proposed rule change is set forth below. Proposed new language is in *italics*.

* * * * *

Rule 1.1. Definitions. When used in these Rules, unless the context otherwise requires:

(a)–(bbb) No Change.

Quarterly Options Series.

(ccc) Quarterly Option Series. A Quarterly Option Series is a series in an options class that is approved for listing and trading on the Exchange in which the series is opened for trading on any business day and that expires at the close of business on the last business day of a calendar quarter.

. . . **Interpretations and Policies:**

.01–.05 No Change.

* * * * *

Rule 5.5. Option Contracts Open for Trading

(a) After a particular class of options (call option contracts or put option contracts relating to a specific underlying security or calculated index) has been approved for listing and trading on the Exchange, the Exchange from time to time may open for trading series of options on that class. Only options contracts of series currently open for trading may be purchased or written on the Exchange. Prior to the opening of trading in a given series, the Exchange will fix the expiration month, year and exercise price of that series. For Short Term Option Series, the Exchange will fix a specific expiration date and exercise price, as provided in paragraph (d). *For Quarterly Options Series the Exchange will fix a specific expiration date and exercise price, as provided in paragraph (e).*

(b) Except for Short Term Option series *and Quarterly Options Series*, at the commencement of trading on the Exchange of a particular class of options, the Exchange usually will open three series of options for each expiration month in that class. The exercise price of each series will be fixed at a price per share, with at least one strike price above and one strike price below the price at which the underlying stock is traded in the primary market at about the time that class of options is first opened for trading on the Exchange. Paragraph (d) will govern the procedures for opening Short Term Option Series. *Paragraph (e) will govern the procedures for opening Quarterly Options Series.*

(c)–(d) No Change.

(e) Quarterly Option Series Pilot Program. For a one-year pilot period, the Exchange may list and trade options series that expire at the close of business on the last business day of a calendar quarter ("Quarterly Options Series"). The Exchange may list Quarterly Options Series for up to five (5) currently listed options classes that are either index options or options on exchange traded funds. In addition, the Exchange may also list Quarterly Options Series on any options classes that are selected by other securities exchanges that employ a similar pilot program under their respective rules. The one-year pilot will commence either the day the Exchange first initiates trading in a Quarterly Options Series or July 24, 2006, whichever is earlier.

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[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 240.19b–4(f)(6).

[5] This proposal is substantially identical to a recently approved proposal by the International Securities Exchange ("ISE") to list Quarterly Options Series on a pilot basis. *See* Securities Exchange Act Releases No. 53857 (May 24, 2006), 71 FR 31246 (June 1, 2006) (notice of filing); and 54113 (July 7, 2006) (approval order).

The Exchange may list series that expire at the end of the next consecutive four (4) calendar quarters, as well as the fourth quarter of the next calendar year. For example, if the Exchange is trading Quarterly Options Series in the month of May 2006, it may list series that expire at the end of the second, third, and fourth quarters of 2006, as well as the first and fourth quarters of 2007. Following the second quarter 2006 expiration, the Exchange could add series that expire at the end of the second quarter of 2007.

(1) Quarterly Options Series will be P.M. settled.

(2) The strike price for each Quarterly Options Series will be fixed at a price per share, with at least two strike prices above and two strike prices below the approximate value of the underlying security at about the time that a Quarterly Options Series is opened for trading on the Exchange. The Exchange shall list strike prices for a Quarterly Options Series that are within $5 from the closing price of the underlying on the preceding day. Additional Quarterly Options Series of the same class may be open for trading on the Exchange when the Exchange deems it necessary to maintain an orderly market, to meet customer demand or when the market price of the underlying security moves substantially from the initial exercise price or prices. To the extent that any additional strike prices are listed by the Exchange, such additional strike prices shall be within $5 from the closing price of the underlying on the preceding day. The opening of the new Quarterly Options Series shall not affect the series of options of the same class previously opened.

(3) The interval between strike prices on Quarterly Options Series shall be the same as the interval for strike prices for series in that same options class that expire in accordance with the normal monthly expiration cycle.

. . . Interpretations and Policies:

.01–.02 No Change.

.03 Except for Short Term Option Series *and Quarterly Options Series*, the Exchange usually will open four expiration months for each class of options open for trading on the Exchange: the first two being the two nearest months, regardless of the quarterly cycle on which that class trades; the third and fourth being the next the two nearest term months (May and June) and the next two expiration months of the cycle (July and October). When the May series expires, the Exchange would add January series. When the June series expires, the Exchange would add August series as the next nearest month, and would not add April).

Regarding Short Term Option Series, the Exchange may select up to five currently listed option classes on which Short Term Option Series may be opened on any Short Term Option Opening Date. In addition to the five-option class restriction, the Exchange also may list Short Term Option Series on any option classes that are selected by other securities exchanges that employ a similar Pilot Program under their respective rules. For each option class eligible for participation in the Short Term Option Series Pilot Program, the Exchange may open up to five Short Term Option Series for each expiration date in that class. The strike price of each Short Term Option Series will be fixed at a price per share, with at least two strike prices above and two strike prices below the value of the underlying security or calculated index value at about the time that Short Term Option Series is opened for trading on the Exchange.

.04–.10 No Change.

* * * * *

Rule 24.1. Definitions

(a)–(y) No Change.

Quarterly Options Series

(z) The term "Quarterly Options Series" means, for the purposes of Chapter XXIV, a series in an options class that is approved for listing and trading on the Exchange in which the series is opened for trading on any business day and that expires at the close of business on the last business day of a calendar quarter.

. . . Interpretations and Policies:

.01 No Change.

* * * * *

Rule 24.4. Position Limits for Broad-Based Index Options

(a)–(d) No Change.

(e) Positions in Short Term Option series *and Quarterly Options Series* shall be aggregated with positions in options contracts on the same index.

. . . Interpretations and Policies:

.01–.04 No Change.

* * * * *

Rule 24.4A Position Limits for Industry Index Options

(a)–(c) No Change.

(d) Positions in Short Term Option series *and Quarterly Options Series* shall be aggregated with positions in options contracts on the same index.

. . . Interpretations and Policies:

.01–.02 No Change.

* * * * *

Rule 24.9. Terms of Index Option Contracts

(a) General.

(1) No Change.

(2) Expiration Months. Index option contracts may expire at three-month intervals or in consecutive months. The Exchange may list up to six expiration months at any one time, but will not list index options that expire more than twelve months out. Notwithstanding the preceding restriction, until the expiration in November 2004, the Exchange may list up to seven expiration months at any one time for the SPX, MNX and DJX index option contracts, provided one of those expiration months is November 2004.

Short Term Option Series Pilot Program. Notwithstanding the preceding restriction, after an index option class has been approved for listing and trading on the Exchange, the Exchange may open for trading on any Friday that is a business day ("Short Term Option Opening Date") series of options on that class that expire on the next Friday that is a business day ("Short Term Option Expiration Date"). If the Exchange is not open for business on a Friday, the Short Term Option Opening Date will be the first business day immediately prior to that Friday. Similarly, if the Exchange is not open for business on a Friday, the Short Term Option Expiration Date will be the first business day immediately prior to that Friday.

The Exchange may continue to list Short Term Option Series until the Short Term Option Series Pilot Program expires on July 12, 2007.

Regarding Short Term Option Series, the Exchange may select up to five currently listed option classes on which Short Term Option Series may be opened on any Short Term Option Opening Date. In addition to the five-option class restriction, the Exchange also may list Short Term Option Series on any option classes that are selected by other securities exchanges that employ a similar Pilot Program under their respective rules. For each index option class eligible for participation in the Short Term Option Series Pilot Program, the Exchange may open up to five Short Term Option Series on index options for each expiration date in that class. The strike price of each Short Term Option Series will be fixed at a price per share, with at least two strike prices above and two strike prices below the calculated value of the underlying index at about the time that Short Term

Option Series is opened for trading on the Exchange. No Short Term Option Series on an index option class may expire in the same week during which any monthly option series on the same index class expire or, in the case of QIXs, in the same week during which the QIXs expire.

Quarterly Options Series Pilot Program. Notwithstanding the preceding restriction, for a one-year pilot period, the Exchange may list and trade options series that expire at the close of business on the last business day of a calendar quarter ("Quarterly Options Series"). The Exchange may list Quarterly Options Series for up to five (5) currently listed options classes that are either index options or options on ETFs. In addition, the Exchange may also list Quarterly Options Series on any options classes that are selected by other securities exchanges that employ a similar pilot program under their respective rules. The one-year pilot will commence either the day the Exchange first initiates trading in a Quarterly Options Series or July 24, 2006, whichever is earlier.

The Exchange may list series that expire at the end of the next consecutive four (4) calendar quarters, as well as the fourth quarter of the next calendar year. For example, if the Exchange is trading Quarterly Options Series in the month of May 2006, it may list series that expire at the end of the second, third, and fourth quarters of 2006, as well as the first and fourth quarters of 2007. Following the second quarter 2006 expiration, the Exchange could add series that expire at the end of the second quarter of 2007.

Quarterly Options Series shall be P.M. settled.

The strike price of each Quarterly Options Series will be fixed at a price per share, with at least two strike prices above and two strike prices below the value of the underlying security at about the time that a Quarterly Options Series is opened for trading on the Exchange. The Exchange shall list strike prices for a Quarterly Options Series that are within $5 from the closing price of the underlying on the preceding day. The Exchange may open for trading additional Quarterly Options Series of the same class if the current index value of the underling index moves substantially from the exercise price of those Quarterly Options Series that already have been opened for trading on the Exchange. The exercise price of each Quarterly Options Series open for trading on the Exchange shall be reasonably related to the current index value of the underlying index to which such series relates at or about the time such series of options is first opened for trading on the Exchange. The term "reasonably related to the current index value of the underlying index" means that the exercise price is within thirty percent (30%) away from the current index value. The Exchange may also open for trading additional Quarterly Options Series that are more than thirty percent (30%) away from the current index value, provided that demonstrated customer interest exists for such series, as expressed by institutional, corporate, or individual customers or their brokers. Market-Makers trading for their own account shall not be considered when determining customer interest under this provision.

(3)–(5) No Change.

(b)–(c) No Change.

. . . Interpretations and Policies:

.01–.12 No Change.

.13 The interval between strike prices on Short Term Option Series *and Quarterly Options Series* shall be the same as the interval for strike prices for series in that same options class that expire in accordance with the normal monthly expatriation cycle.

.14 No Change.

* * * * *

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to amend its rules to accommodate the listing of options series that would expire at the close of business on the last business day of a calendar quarter ("Quarterly Options Series"). Quarterly Options Series could be opened on any approved options class [6] on a business day ("Quarterly Options Opening Date") and would expire at the close of business on the last business day of a calendar quarter ("Quarterly Options Expiration Date"). The Exchange would list series that expire at the end of the next consecutive four (4) calendar quarters, as well as the fourth quarter of the next calendar year. For example, if the Exchange were trading Quarterly Options Series in the month of April 2006, it would list series that expire at the end of the second, third, and fourth quarters of 2006, as well as the first and fourth quarters of 2007. Following the second quarter 2006 expiration, the Exchange would add series that expire at the end of the second quarter of 2007.

Quarterly Options Series listed on currently approved options classes would be P.M.-settled and, in all other respects, would settle in the same manner as do the monthly expiration series in the same options class.

The proposed rule change would allow the Exchange to open up to five currently listed options classes that are either index options or options on ETFs. The strike price for each series would be fixed at a price per share, with at least two strike prices above and two strike prices below the approximate value of the underlying security at about the time that a Quarterly Options Series is opened for trading on the Exchange. The Exchange may list strike prices for a Quarterly Options Series that are within $5 from the closing price of the underlying security on the preceding trading day. The proposal would permit the Exchange to open for trading additional Quarterly Options Series of the same class when the Exchange deems it necessary to maintain an orderly market, to meet customer demand, or when the current market price of the underlying security moves substantially from the exercise prices of those Quarterly Options Series that already have been opened for trading on the Exchange. In addition, the exercise price of each Quarterly Options Series on an underlying index would be required to be reasonably related to the current index value of the index at or about the time such series of options were first opened for trading on the Exchange. The term "reasonably related to the current index value of the underlying index" means that the exercise price is within thirty percent of the current index value. The Exchange would also be permitted to open for trading additional Quarterly Options Series on an underlying index that are more than thirty percent away from the current index value, provided that demonstrated customer interest exists for such series, as expressed by

[6] Quarterly Options Series may be opened in options on indexes or options on Exchange Traded Fund ("ETFs") that satisfy the applicable listing criteria under CBOE rules.

institutional, corporate, or individual customers or their brokers. Market-Makers trading for their own account shall not be considered when determining customer interest under this provision.

Because monthly options series expire on the third Friday of their expiration month, a Quarterly Options Series, which would expire on the last business day of the quarter, could never expire in the same week in which a monthly options series in the same class expires. The same, however, is not the case for Short Term Option Series. Quarterly Options Series and Short Term Option Series on the same options class could potentially expire concurrently under the proposal. Therefore, to avoid any confusion in the marketplace, the proposal stipulates that the Exchange may not list a Short Term Option Series that expires at the end of the day on the same day as a Quarterly Options Series in the same class expires. In other words, the proposed rules would not permit the Exchange to list a P.M.-settled Short Term Option Series on an ETF or an index that would expire on a Friday that is the last business day of a calendar quarter if a Quarterly Options Series on that ETF or index were scheduled to expire on that day.

However, the proposed rules would permit the Exchange to list as A.M.-settled Short Term Option Series and a P.M.-settled Quarterly Options Series in the same options class that both expire on the same day (*i.e.*, on a Friday that is the last business day of the calendar quarter). The Exchange believes that the concurrent listing of an A.M.-settled Short Term Option Series and a P.M.-settled Quarterly Options Series on the same underlying ETF or index that expire on the same day would not tend to cause the same confusion as would P.M.-settled short term and quarterly series in the same options class, and would provide investors with an additional hedging mechanism.

Finally, the interval between strike prices on Quarterly Options Series would be the same as the interval for strike prices for series in the same options class that expires in accordance with the normal monthly expiration cycles.

The Exchange believes that Quarterly Options Series would provide investors with a flexible and valuable tool to manage risk exposure, minimize capital outlays, and be more responsive to the timing of events affecting the securities that underlie option contracts. At the same time, CBOE is cognizant of the need to be cautious in introducing a product that can increase the number of outstanding strike prices. For that reason, CBOE intends to employ a limited pilot program ("Pilot Program") for Quarterly Options Series. Under the terms of the Pilot Program, the Exchange could select up to five option classes on which Quarterly Options Series may be opened on any Quarterly Options Opening Date. The Exchange would also be allowed to list those Quarterly Options Series on any options class that is selected by another securities exchange with a similar Pilot Program under its rules. The Exchange believes that limiting the number of options classes in which Quarterly Options Series may be opened would help to ensure that the addition of the new series through this Pilot Program will have only a negligible impact on the Exchange's and the Option Price Reporting Authority's ("OPRA") quoting capacity. Also, limiting the term of the Pilot Program to a period of one year will allow the Exchange and the Commission to determine whether the program should be extended, expanded, and/or made permanent.

If the Exchange were to propose an extension or an expansion of the program, or were the Exchange to propose to make the Pilot Program permanent, the Exchange would submit, along with any filing proposing such amendments to the Pilot Program, a Pilot Program report ("Report") that will provide an analysis of the Pilot Program covering the entire period during which the Pilot Program was in effect. The Report would include, at a minimum: (1) Data and written analysis on the open interest and trading volume in the classes for which Quarterly Option Series were opened; (2) an assessment of the appropriateness of the options classes selected for the Pilot Program; (3) an assessment of the impact of the Pilot Program on the capacity of CBOE, OPRA, and on market data vendors (to the extent data from market data vendors is available); (4) any capacity problems or other problems that arose during the operation of the Pilot Program and how CBOE addressed such problems; and (5) any complaints that CBOE received during the operation of the Pilot Program and how CBOE addressed them; and (6) any additional information that would assist in assessing the operation of the Pilot Program. The Report must be submitted to the Commission at least sixty days prior to the expiration date of the Pilot Program.

Alternatively, at the end of the Pilot Program, if the Exchange determines not to propose an extension or an expansion of the Pilot Program, or if the Commission determines not to extend or expand the Pilot Program, the Exchange would not longer list any additional Quarterly Options Series and would limit all existing open interest in Quarterly Options Series to closing transactions only.

Finally, the Exchange represents that it has the necessary systems capacity to support new options series that will result from the introduction of Quarterly Options Series.

2. Statutory Basis

The Exchange believes that the introduction of Quarterly Options Series will attract order-flow to the Exchange, increase the variety of listed options to investors, and provide a valuable hedging tool to investors. For these reasons, the Exchange believes that the proposed rule change is consistent with Section 6(b) of the Act[7] in general and furthers the objectives of Section 6(b)(5) of the Act[8] in particular in that it is designed to promote just and equitable principles of trade and, in general, to protect investors and the public interest.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition 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

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The Exchange has filed the proposed rule change pursuant to Section 19(b)(3)(A) of the Act[9] and subparagraph (f)(6) of Rule 19b–4 thereunder.[10] Because the foregoing proposed rule change (i) does not significantly affect the protection of investors or the public interest; (ii) does not impose any significant burden on competition; and (iii) does not become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, if consistent with the protection of investors and the public interest, the proposed rule change has become effective pursuant to Section 19(b)(3)(A)

[7] 15 U.S.C. 78f(b).
[8] 15 U.S.C. 78f(b)(5).
[9] 15 U.S.C. 78s(b)(3)(A).
[10] 17 CFR 240.19b–4(f)(6).

of the Act and Rule 19b–4(f)(6)(iii) thereunder.[11]

A proposed rule change filed under Rule 19b–4(f)(6) normally does not become operative for 30 days after the date of filing. However, Rule 19b–4(f)(6)(iii) permits the Commission to waive the operative delay if such action is consistent with the protection of investors and the public interest. The Exchange has asked the Commission to waive the operative delay to permit the Pilot Program extension to become effective prior to the 30th day after filing.

The Commission believes that waiving the 30-day operative delay is consistent with the protection of investors and the public interest. The Commission notes that the proposal is substantially identical to the ISE's Quarterly Option Series Pilot Program, previously published for comment and approved by the Commission,[12] and thus CBOE's proposal raises no new issues of regulatory concern. Moreover, waiving the operative delay will allow CBOE to immediately compete with other exchanges that list and trade quarterly options under similar programs, and consequently will benefit the public. Therefore, the Commission has determined to waive the 30-day delay and allow the proposed rule change to become operative upon filing.[13]

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 No. SR–CBOE–2006–65 on the subject line.

Paper Comments

- Send paper comments in triplicate to Nancy M. Morris, Secretary, Securities and Exchange Commission, 100 F Street, NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–CBOE–2006–65. 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 Commissions Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of such filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–CBOE–2006–65 and should be submitted on or before August 7, 2006.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[14]

Jill M. Peterson,

Assistant Secretary.

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[11] The Exchange provided the Commission with pre-filing notice of the proposal, as required by Rule 19b–4(f)(6)(iii).

[12] *See supra* note 5.

[13] For purposes only of waiving the operative delay of this proposal, the Commission notes that it has considered the proposed rule's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

[14] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–54120; File No. SR–DTC–2005–14]

Self-Regulatory Organizations; The Depository Trust Company; Order Approving a Proposed Rule Change Relating to Compliance With Regulations Administered by the Office of Foreign Assets Control

July 10, 2006.

On September 9, 2005, The Depository Trust Company ("DTC") 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 on October 25, 2005, amended the proposed rule change. On November 30, 2005, DTC again amended the proposed rule change.[2] Notice of the proposal was published in the **Federal Register** on November 14, 2005.[3] The Commission received one comment letter.[4] For the reasons discussed below, the Commission is approving the proposed rule change.

I. Description

DTC will revise its Deposit Service, Custody Service, and Withdrawals-By-Transfer Service procedures. These changes are based upon guidance from the U.S. Department of the Treasury's Office of Foreign Assets Control ("OFAC") to DTC.

1. Deposit Service

In order for a participant to receive immediate credit in its securities account at DTC for a deposit of registered securities, the participant will be required to certify to DTC that it has compared certain parties identified on the deposited certificate (this could include parties such as the issuer and all assignees) against OFAC's list of Specially Designated Nationals and against OFAC's regulations (collectively referred to as the "OFAC list") and that there were no matches identified by such comparison.

In the case of a deposit of registered securities by a participant located outside the United States, including a

[1] 15 U.S.C. 17s(b)(1).

[2] Republication of notice of proposed rule change is not required because the second amendment to the proposed rule change merely clarified an existing DTC practice and did not alter the rights or responsibilities of DTC's participants.

[3] Securities Exchange Act Release No. 52721 (Nov. 2, 2005), 70 FR 69179.

[4] Letter from Alan E. Sorcher, Vice President and Associate General Counsel, Securities Industry Association (Dec. 8, 2005), available online at *http://www.sec.gov/rules/sro/dtc/dtc200514.shtml*.

deposit by or for the benefit of a participant accepted at a depository facility located outside the United States, a participant will not receive immediate credit in its securities account. DTC will give credit for the deposit only after DTC has screened the parties on the deposit against the OFAC list and has identified no valid matches.

2. Custody Service

With respect to securities and other financial instruments that are deposited pursuant to DTC's Custody Service procedures, DTC will act on the instructions of the depositing participant only after DTC has screened the parties on the deposit against the OFAC list and has identified no valid matches.[5]

3. Withdrawal-By-Transfer Service

For securities on deposit that are sought to be withdrawn pursuant to DTC's Withdrawal-By-Transfer Service, including Withdrawal-By-Transfer requests for securities in the Direct Registration System, DTC will act on the instructions of a withdrawing participant only after DTC has screened the investor in whose name the securities are to be registered against the OFAC list and has identified no valid match.

For each service, in the event that DTC identifies a match against the OFAC list, DTC will first attempt to resolve false-positive matches. For valid matches, DTC will present the matches to participants that issued the instructions through a new Participant Terminal System function called "OFAP." The participant will be required to review the registration of each certificate identified as a potential match and to respond to DTC for each such registration by providing information sufficient for DTC to conclude, in its sole discretion, that the registrant is or is not the person or entity listed on the OFAC list. Notwithstanding a participant's efforts to resolve matches against the OFAC list, if DTC, in its sole discretion, continues to believe that the registrant is the person or entity on the OFAC list, it will refuse to process the requested transaction.

II. Comment Letters

The Commission received one comment letter on the proposed rule change from the Securities Industry Association ("SIA"). The SIA recommended that the Commission: (1) Allow for a reasonable implementation period that recognizes the significant changes broker-dealers will likely have to make to their systems and procedures; (2) clarify a participant's obligations to screen names that appear as prior owners on securities certificates; (3) clarify how introducing and clearing brokers are to implement certain provisions of the rule; and (4) provide guidance on the application of Regulation S–P,[6] which governs the privacy of consumer financial information, to the process by which participants provide information to DTC. Furthermore, the SIA expressed concern that the rule change might negatively affect investors because of potential delays in processing their transactions due to duplicative OFAC checks.

In response to these comments, the Commission first observes that DTC provided its participants with the planned technical specifications of the processing systems for its deposit services in March 2006.[7] On June 30, 2006, DTC further notified participants that the OFAC certification process would be implemented in two phases: Phase 1, which will be effective August 7, 2006, for deposits affecting a small category of deposits received by DTC and which should require no systems changes by participants; and Phase 2, which will be effective sometime in the fourth quarter of 2006, for the remaining deposits and that will require systems enhancements.[8] The Commission believes that these time implementation time frames should be sufficient for participants to make any needed systems changes and to make any needed operational changes required to implement DTC's revisions.

Second, the "property" and "property interests" subject to OFAC regulations[9] relate to items where the property owner has a "present, future, or contingent" ownership interest.[10] Since prior security owners whose names might appear on a securities certificate have no present, future, or contingent interest in that property, transacting in such certificates would not appear to be prohibited by OFAC regulations.

Third, in approving the proposed rule change, the Commission does not take a position on whether a DTC participant can evade OFAC liability if it relies on a certification of an introducing broker-dealer for which it acts that the introducing broker-dealer has screened the parties involved in the transaction against the OFAC list and that there were no matches identified by such screening.[11]

Fourth, broker-dealers disclosing their customers' nonpublic personal information to comply with OFAC or DTC rules could rely on an exception from Regulation S–P's notice and opt out requirements for disclosures made to comply with Federal, state, or local laws, rules and other applicable legal requirements.[12] Recipients of information disclosed under this exception would be subject to Regulation S–P's limitations on the redisclosure and reuse of such information.[13]

With respect to the SIA's concern that some investors might be negatively affected by potentials delays in processing duplicative OFAC checks, the Commission notes that any such potential delays in processing should be minimal and well justified in light of the importance of the goals and purposes of doing such checks.

III. Discussion

Section 17A(b)(3)(F) of the Act requires, among other things, that the rules of a clearing agency be designed to assure the safeguarding of securities and funds that are in its custody or control.[14] DTC, like all U.S. persons and entities, is subject to OFAC regulations.[15] Pursuant to recommendations made by OFAC, DTC is establishing formal procedures that will define and allocate responsibility for screening the names of persons and entities involved in furtherance of its obligation to refuse to transact directly or indirectly with restricted persons and entities. In so doing, DTC mitigates its regulatory risk of conducting business with such restricted individuals and entities, which could substantially imperil its or its participants assets, and therefore should help DTC assure the safeguarding of securities and funds that

[5] This is the clarification that was the subject of DTC's November 30, 2005, amendment to the proposed rule change. *Supra* note 2.

[6] 17 CFR 248.

[7] "Preparation for the Implementation of OFAC Certification of Deposits from Domestic Participants," DTC Important Notice B9382–06 (Mar. 31, 2006), available online at *http://www.dtc.org/impNtc/exe/exe_9382-06.pdf.*

[8] "Implementation of OFAC Certification of Deposits from Domestic Participants," DTC Important Notice B9899–06 (June 30, 2006), available online at *http://www.dtc.org/impNtc/exe/exe_9899-06.pdf.*

[9] *See, e.g.*, 31 CFR 215.203.

[10] 31 CFR 515.311(a).

[11] The Commission notes that further inquiries relating to this subject should be directed to OFAC.

[12] *See* 17 CFR 248.15(a)(7)(i).

[13] *See, e.g.*, 17 CFR 248.11(a).

[14] 15 U.S.C. 78q–1(b)(3)(F).

[15] The fines for violations can be substantial. Depending on the violation, criminal penalties can include fines ranging from $50,000 to $10,000,000 and imprisonment ranging from 10 to 30 years for willful violations. Civil penalties range from $11,000 to $1,000,000 for each violation.

are in its custody or control or for which it is responsible.

The OFAC-related procedures of, among others, DTC and broker-dealers, are the subject of ongoing OFAC and Commission reviews to determine the effectiveness of these procedures in identifying and blocking transactions with restricted persons and entities. Accordingly, DTC has acknowledged that subject to the finding of these reviews it may need to revise its procedures in the future and has represented that it will continue to work with the Commission and OFAC to improve the effectiveness of its OFAC-related procedures.

IV. Conclusion

On the basis of the foregoing, the Commission finds that the proposal is consistent with the requirements of the Act and in particular with the requirements of Section 17A of the Act [16] and the rules and regulations thereunder.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act, that the proposed rule change (File No. SR–DTC–2005–14) be, and hereby is, approved.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.[17]

Jill M. Peterson,

Assistant Secretary.

[FR Doc. E6–11209 Filed 7–14–06; 8:45 am]

BILLING CODE 8010–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–54117; File No. SR–ISE–2006–37]

Self-Regulatory Organizations; International Securities Exchange, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Extend the Short Term Option Series Pilot Program

July 10, 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 July 3, 2006, the International Securities Exchange, Inc. ("Exchange" or "ISE") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange. ISE has designated this proposal as non-controversial under section 19(b)(3)(A)(iii) of the Act [3] and Rule 19b–4(f)(6) thereunder,[4] 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 Substance of the Proposed Rule Change

The Exchange proposes to amend Supplementary Material .02 to ISE Rule 504 and Supplementary Material .01 to ISE Rule 2009 to extend until July 12, 2007, its pilot program for listing and trading Short Term Option Series ("Pilot Program"). The text of the proposed rule change is available on the Exchange's Web site (*http://www.iseoptions.com*), at the Exchange's principal office, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The purpose of the proposed rule change is to extend the Pilot Program for an additional year, through July 12, 2007.[5] The Pilot Program allows ISE to list and trade Short Term Option Series, which expire one week after the date on which a series is opened. Under the Pilot Program, ISE may select up to five approved options classes on which Short Term Option Series could be opened.[6] A series could be opened on any Friday that is a business day and would expire on the next Friday that is a business day.[7] If a Friday were not a business day, the series could be opened (or would expire) on the first business day immediately prior to that Friday.

For each class selected for the Pilot Program, the Exchange usually would open five Short Term Option Series in that class for each expiration date. The strike price of each Short Term Option Series would be fixed at a price per share, with at least two strike prices above and two strike prices below the value of the underlying security or calculated index value at about the time that the Short Term Option Series is opened. ISE would not open a Short Term Option Series in the same week that the corresponding monthly options series is expiring, because the monthly options series in its last week before expiration is functionally equivalent to the Short Term Option Series. The intervals between strike prices on a Short Term Option Series would be the same as the intervals between strike prices on the corresponding monthly options series.

The Exchange believes that Short Term Option Series can provide investors with a flexible and valuable tool to manage risk exposure, minimize capital outlays, and be more responsive to the timing of events affecting the securities that underlie option contracts. While ISE has not listed any Short Term Option Series during the first year of the Pilot Program, there has been significant investor interest in trading short-term options at the Chicago Board Options Exchange ("CBOE").[8] To have the ability to respond to customer interest in the future, the Exchange proposes the continuation of the Pilot Program.

In the original proposal to establish the Pilot Program, the Exchange stated

[16] 15 U.S.C. 78q–1.

[17] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 15 U.S.C. 78s(b)(3)(A)(iii).

[4] 47 CFR 240.19b–4(f)(6).

[5] The Commission approved the Pilot Program on July 12, 2005. *See* Securities Exchange Act Release No. 52012 (July 12, 2005), 70 FR 41246 (July 18, 2005) (SR–ISE–2005–17). Under ISE Rules 504 and 2009, the Pilot Program is scheduled to expire on July 12, 2006.

[6] A Short Term Option Series could be opened in any options class that satisfied the applicable listing criteria under ISE rules (*i.e.*, stock options, options on exchange traded funds as defined under ISE Rule 502(h), or options on indexes). The Exchange could also list and trade Short Term Option Series on any options class that is selected by another exchange that employs a similar pilot program.

[7] Short Term Option Series would be settled in the same manner as the monthly expiration series in the same class. Thus, if the monthly option contract for a particular class were A.M.-settled, as most index options are, the Short Term Option Series for that class also would be A.M.-settled; if the monthly option contract for a particular class were P.M.-settled, as most non-index options are, the Short Term Option Series for that class also would be P.M.-settled. Similarly, Short Term Option Series for a particular class are physically settled or cash-settled in the same manner as the monthly option contract in that class.

[8] CBOE filed a report with the Commission on June 13, 2006, stating that CBOE has listed Short Term Options Series in four different options classes. *See* Securities Exchange Act Release No. 53984 (June 14, 2006), 71 FR 35718 (June 21, 2006) (extending CBOE's Short Term Option Series Pilot Program).

that if it were to propose an extension, expansion, or permanent approval of the program, the Exchange would submit, along with any filing proposing such amendments to the program, a report providing an analysis of the Pilot Program covering the entire period during which the Pilot Program was in effect.[9] Since the Exchange did not list any One Week Options Series during the first year of the Pilot Program, there is no data available to compile such a report at this time. Therefore the Exchange did not submit a report with its proposal to extend the Pilot Program.

2. Statutory Basis

The Exchange believes that Short Term Option Series could stimulate customer interest in options and provide a flexible and valuable tool to manage risk exposure, minimize capital outlays, and be more responsive to the timing of events affecting the securities that underlie option contracts. For these reasons, the Exchange believes that the proposed rule change is consistent with section 6(b) of the Act [10] in general and furthers the objectives of section 6(b)(5) of the Act [11] in particular in that it is designed to promote just and equitable principles of trade, to prevent fraudulent and manipulative acts, 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.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The Exchange has filed the proposed rule change pursuant to section 19(b)(3)(A) of the Act [12] and subparagraph (f)(6) of Rule 19b–4 thereunder.[13] Because the foregoing proposed rule change (i) does not significantly affect the protection of investors or the public interest; (ii) does not impose any significant burden on competition; and (iii) does not become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, if consistent with the protection of investors and the public interest, the proposed rule change has become effective pursuant to section 19(b)(3)(A) of the Act and Rule 19b–4(f)(6)(iii) thereunder.

A proposed rule change filed under Rule 19b–4(f)(6) normally requires notice to the Commission of the Exchange's intent to file the proposed rule change five business days prior to filing, and normally does not become operative for 30 days after the date of filing. However, Rule 19b–4(f)(6)(iii) permits the Commission to waive the five day pre-filing requirement and to accelerate the operative date if such action is consistent with the protection of investors and the public interest. The Exchange has asked the Commission to waive the pre-filing notice requirement and the operative delay to permit the Pilot Program extension to become effective prior to the 30th day after filing.

The Commission believes that waiving the pre-filing notice requirement and the 30-day operative delay is consistent with the protection of investors and the public interest because waiving these requirements will allow the benefits of the Pilot Program to continue without interruption.[14] Therefore, the Commission designates that the proposal will become operative on July 12, 2006.[15]

At any time within 60 days of the filing of the proposed rule change, the Commission may summarily abrogate the 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 No. SR–ISE–2006–37 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–ISE–2006–37. 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 Commissions Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of such filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You

[9] *See* Form 19b–4 for File No. SR–ISE–2005–17, filed March 7, 2005.

[10] 15 U.S.C. 78f(b).

[11] 15 U.S.C. 78f(b)(5).

[12] 15 U.S.C. 78s(b)(3)(A).

[13] 17 CFR 240.19b–4(f)(6).

[14] For purposes only of waiving the 30-day operative delay, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

[15] As set forth in the Exchange's original filing proposing the Pilot Program, if the Exchange were to propose an extension, expansion, or permanent approval of the Pilot Program, the Exchange would submit, along with any filing proposing such amendments to the program, a report that would provide an analysis of the Pilot Program covering the entire period during which the Pilot Program was in effect. The report would include, at a minimum: (1) Data and written analysis on the open interest and trading volume in the classes for which Short Term Option Series were opened; (2) an assessment of the appropriateness of the options classes selected for the Pilot Program; (3) an assessment of the impact of the Pilot Program on the capacity of ISE, OPRA, and market data vendors (to the extent data from market data vendors is available); (4) any capacity problems or other problems that arose during the operation of the Pilot Program and how ISE addressed such problems; (5) any complaints that ISE received during the operation of the Pilot Program and how ISE addressed them; and (6) any additional information that would assist in assessing the operation of the Pilot Program. The report must be submitted to the Commission at least 60 days prior to the expiration date of the Pilot Program. *See* Form 19b–4 for File No. SR–ISE–2005–17, filed March 7, 2005.

should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–ISE–2006–37 and should be submitted on or before August 7, 2006.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[16]

Jill M. Peterson,

Assistant Secretary.

[FR Doc. E6–11204 Filed 7–14–06; 8:45 am]

BILLING CODE 8010–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–54121; File No. SR–ISE–2006–31]

Self-Regulatory Organizations; International Securities Exchange, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Relating to PrecISE Fees

July 10, 2006.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the "Act"),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on June 30, 2006, the International Securities Exchange, Inc. ("ISE" 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 ISE. The ISE has designated this proposal as one establishing or changing a due, fee, or other charge imposed by the ISE under Section 19(b)(3)(A)(ii) of the Act,[3] and Rule 19b–4(f)(2) thereunder,[4] which renders the proposal effective upon filing with the Commission. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The ISE is proposing to amend its Schedule of Fees to: (i) Adopt PrecISE through VPN fees; (ii) clarify the application of a fee waiver for PrecISE Trade® terminals; and (iii) exempt PrecISE through VPN from Session/API fees. The text of the proposed rule change is available on the ISE's Web site (*http://www.iseoptions.com/legal/proposed_rule_changes.asp*), at the principal office of the ISE, and at the Commission's Public Reference Room.

[16] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 15 U.S.C. 78s(b)(3)(A)(ii).

[4] 17 CFR 240.19b–4(f)(2).

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 ISE 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 ISE has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The purpose of this proposed rule change is to amend the Exchange's Schedule of Fees to: (i) Adopt PrecISE through VPN fees; (ii) clarify the application of a fee waiver for PrecISE Trade terminals; and (iii) exempt PrecISE through VPN from Session/API fees.

PrecISE through VPN is a new method for connecting a PrecISE Trade terminal to the Exchange.[5] A PrecISE through VPN connection is available to Electronic Access Members ("EAMs") of the Exchange. PrecISE through VPN consists of PrecISE, a front-end, order entry application that was recently rolled out by the Exchange that will eventually replace the current CLICK trade terminals.[6] PrecISE, in addition to a dedicated network connection, also runs over a secure "virtual private network" (*i.e.*, "VPN") over the Internet. PrecISE through VPN was designed for EAMs that want a lower cost, lower bandwidth connection to the Exchange than the traditional, dedicated network PrecISE connection. The Exchange also envisions that EAMs will use PrecISE through VPN as a back-up or disaster recovery connection to the Exchange. As a result, the Exchange is proposing to establish a monthly fee of $250 per terminal for PrecISE through VPN to offset the Exchange's costs for maintaining these connections.

Secondly, the Exchange recently adopted a waiver of fees related to the new PrecISE Trade terminals, such that fees for the first two months of a member's use of PrecISE Trade terminals are waived.[7] The Exchange proposes to clarify that the waiver shall only apply to those members that are *concurrently* using both the old CLICK Trade terminals and the new PrecISE Trade terminals. The purpose of the waiver is to allow an existing member to transition from a CLICK Trade terminal to a PrecISE Trade terminal, without being charged both fees. For example, new members who only have PrecISE Trade terminals would not be eligible for this fee waiver.

Finally, the Exchange is proposing that PrecISE through VPN connections be exempt from Session/API fees. As with CLICK through VPN, Session/API fees will not apply for connecting to the Exchange's trading system through a VPN connection.

2. Statutory Basis

The Exchanges believes that the basis under the Act for this proposed rule change is the requirement under Section 6(b)(4) of the Act[8] that an exchange have an equitable allocation of reasonable dues, fees and other charges among its members and other persons using its facilities.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange believes that the proposed rule change does not impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

The Exchange has not solicited, and does not intend to solicit, comments on this proposed rule change. The Exchange has not received any unsolicited written comments from members or other interested parties.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing rule change establishes or changes a due, fee, or other charge imposed by the Exchange, it has become effective pursuant to

[5] PrecISE through VPN is similar to CLICK through VPN, for which the Exchange has previously adopted fees. *See* Securities Exchange Act Release No. 48157 (July 10, 2003), 68 FR 42443 (July 17, 2003) (notice and immediate effectiveness of SR–ISE–2003–14).

[6] The Exchange represents that PrecISE through VPN is merely a different means of connecting to the trading system operated by the Exchange known as PrecISE (*i.e.*, it is a new means of connecting to the Exchange's trading system), and does not require any changes to the Exchange's surveillance or communications rules.

[7] *See* Securities Exchange Act Release No. 53788 (May 11, 2006), 71 FR 28728 (May 17, 2006) (notice and immediate effectiveness of SR–ISE–2006–19).

[8] 15 U.S.C. 78f(b)(4).

Section 19(b)(3)(A) of the Act[9] and Rule 19b–4(f)(2)[10] thereunder. At any time within 60 days of the filing of such proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an e-mail to *rule-comments@sec.gov*. Please include File No. SR–ISE–2006–31 on the subject line.

Paper Comments

- Send paper comments in triplicate to Nancy M. Morris, Secretary, Securities and Exchange Commission, Station Place, 100 F Street, NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–ISE–2006–31. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of such filing also will be available for inspection and copying at the principal office of the ISE.

All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–ISE–2006–31 and should be submitted on or before August 7, 2006.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[11]

Jill M. Peterson,

Assistant Secretary.

[FR Doc. E6–11210 Filed 7–14–06; 8:45 am]

BILLING CODE 8010–01–P

[9] 15 U.S.C. 78s(b)(3)(A).

[10] 17 CFR 19b–4(f)(2).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–54124; File No. SR–ISE–2005–49]

Self-Regulatory Organizations; International Securities Exchange, Inc.; Order Approving Proposed Rule Change and Amendment Nos. 1 and 2 Relating to Complex Order Execution

July 11, 2006.

I. Introduction

On October 4, 2005, the International Securities Exchange, Inc. ("ISE" 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 amend ISE Rule 722, "Complex Orders," to allow the legs of an options-only complex order to be executed in penny increments. The ISE filed Amendment Nos. 1 and 2 to the proposal on February 1, 2006, and April 20, 2006, respectively.[3] The proposed rule change, as amended by Amendment Nos. 1 and 2, was published for comment in the **Federal Register** on June 6, 2006.[4] The Commission received no comments regarding the proposal, as amended. This order approves the proposed rule change, as amended.

II. Description of the Proposal

ISE Rule 722(b)(1) currently allows the options leg(s) of a stock-option order to be executed in one-cent increments, regardless of the minimum increment otherwise applicable to the individual options leg(s) of the order.[5] The ISE proposes to amend ISE Rule 722(b)(1) to allow options-only complex orders, as well as stock-option orders, to be executed in one-cent increments. The proposal retains the existing requirement under the ISE's rules that allows a complex order to take priority over established Public Customer interest in the marketplace only if at least one leg of the complex order trades at a price that is better than the corresponding bid or offer in the marketplace by at least one minimum trading increment, as provided in ISE Rule 710.[6]

III. Discussion

After careful review, 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 and, in particular, with Section 6(b)(5) of the Act,[7] 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.[8] Specifically, the Commission believes that by allowing options-only complex orders to be executed in one-cent increments, the proposal may facilitate the execution of options-only complex orders by providing a greater number of price points at which such orders may be executed. As noted above, the ISE's rules will continue to require that at least one leg of a complex order trade at a price that is better than the corresponding bid or offer in the marketplace by at least one minimum trading increment, as provided in ISE Rule 710, when any of the established bids or offers in the marketplace consists of a Public Customer limit order.[9]

IV. Conclusion

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,[10] that the proposed rule change (SR–ISE–2005–49), as amended, is approved.

[11] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] Amendment No. 2 replaced the initial filing and Amendment No. 1 in their entirety.

[4] *See* Securities Exchange Act Release No. 53909 (May 31, 2006), 71 FR 32617.

[5] Under ISE Rule 710, "Minimum Trading Increments," the minimum trading increment is $.05 for an options contract trading at less than $3.00 per option and $.10 for an options contract trading at $3.00 per option or higher.

[6] *See* ISE Rule 722(b)(2).

[7] 15 U.S.C. 78f(b)(5).

[8] In approving this proposed rule change, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

[9] *See* ISE Rule 722(b)(2).

[10] 15 U.S.C. 78s(b)(2).

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[11]

Jill M. Peterson,

Assistant Secretary.

[FR Doc. E6–11228 Filed 7–14–06; 8:45 am]

BILLING CODE 8010–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–54119; File No. SR–Nasdaq–2006–014]

Self-Regulatory Organizations; The NASDAQ Stock Market LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change to Modify the Description of the ACES Communications Service

July 10, 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 July 7, 2006, The NASDAQ Stock Market LLC ("Exchange" or "Nasdaq") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange.[3] Nasdaq has designated this proposal as non-controversial under section 19(b)(3)(A)(iii) of the Act[4] and Rule 19b–4(f)(6) thereunder,[5] 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 Substance of the Proposed Rule Change

The Exchange proposes to amend Nasdaq Rule 6210 to allow non-members to use the ACES communications service. The text of the proposed rule change is set forth below. Additions are in *italics* and deletions are in [brackets].

* * * * *

6210. Definitions

(a) and (b) No change

(c) The term "Receiving Subscriber" means any [Nasdaq member that is registered as a Nasdaq market maker or ITS/CAES Market Maker and] *person* that has executed an agreement with Nasdaq authorizing its use of ACES to receive ACES Orders from Routing Subscribers.

(d) The term "Routing Subscriber" means any [Nasdaq member] *person* that has executed an agreement with Nasdaq authorizing its use of ACES to route orders to Receiving Subscribers' order management systems.

* * * * *

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

ACES is a neutral communications service that allows market participants to route orders to one another. ACES does not effect trade executions, and it does not report executed trades to "the tape." Moreover, market participants receiving orders through ACES may execute them in any manner that they deem consistent with duties of best execution and other applicable industry obligations. As the ACES service can be of value to all market participants, both members and non-members of the NASD have historically been permitted to use it. Thus, today, there are a number of non-members who actually send their orders using the ACES system.

The rule set under which Nasdaq will shortly begin to operate as an exchange has for the first time included a description of ACES.[6] However, as this description is currently worded, it would require that all ACES users be Nasdaq members, which would be a departure from the existing practice. Nasdaq proposes to adjust the applicable language in order to eliminate this restriction entirely before Nasdaq begins operating as an exchange and to avoid denying access to ACES to non-members that wish to use it for either routing or receiving orders.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with section 6(b) of the Act[7] in general and furthers the objectives of section 6(b)(5) of the Act[8] in particular in that it is designed 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.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing proposed rule change has become effective pursuant to section 19(b)(3)(A) of the Act[9] and Rule 19b–4(f)(6)[10] thereunder because it (i) does not significantly affect the protection of investors or the public interest; (ii) does not impose any significant burden on competition; and (iii) does not become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, provided that the self-regulatory organization has given the Commission written notice of its intent to file the proposed rule change at least five business days prior to the filing date of the proposed rule change.[11]

The Exchange has requested that the Commission waive the 30-day operative delay of Rule 19b–4(f)(6)(iii) so that the proposed rule change may become

[11] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] Subsequent to filing the proposal, the Exchange clarified that Item 8 of the Form 19b–4 should state that the proposed rule change is not based on rules of another self-regulatory organization or of the Commission. Telephone conversation between Alex Kogan, Associate General Counsel, Nasdaq, and Nathan Saunders, Special Counsel, Division of Market Regulation, Commission, on July 10, 2006.

[4] 15 U.S.C. 78s(b)(3)(A)(iii).

[5] 17 CFR 240.19b–4(f)(6).

[6] *See* Nasdaq Rules 6200–6250.

[7] 15 U.S.C. 78f(b).

[8] 15 U.S.C. 78f(b)(5).

[9] 15 U.S.C. 78s(b)(3)(A).

[10] 17 CFR 240.19b–4(f)(6).

[11] As required under Rule 19b–4(f)(6)(iii), the Exchange provided the Commission with written notice of its intent to file the proposed rule change at least five days prior to the filing date.

effective on the date that Nasdaq commences operations as a national securities exchange (currently scheduled to be August 1, 2006). The Commission believes that waiving the operative delay is consistent with the protection of investors and the public interest because doing so will permit non-members to continue to use ACES without interruption. Therefore, the Commission has determined to waive the 30-day operative delay and allow the proposed rule change to become operative on the date that Nasdaq commences operations as a national securities exchange.[12]

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 No. SR–Nasdaq–2006–014 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–Nasdaq–2006–014. 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 Commissions Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of such filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–Nasdaq–2006–014 and should be submitted on or before August 7, 2006.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[13]

Jill M. Peterson,

Assistant Secretary.

[FR Doc. E6–11207 Filed 7–14–06; 8:45 am]

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[12] For purposes only of waiving the operative delay of this proposal, the Commission notes that it has considered the proposed rule's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

[13] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–54118; File No. SR–NASD–2005–114]

Self-Regulatory Organizations; National Association of Securities Dealers, Inc.; Notice of Filing of Proposed Rule Change Relating to the Regulation of Compensation, Fees, and Expenses in Public Offerings of Real Estate Investments Trusts and Direct Participation Programs

July 10, 2006.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on September 28, 2005, the National Association of Securities Dealers, Inc. ("NASD") filed with the Securities and Exchange Commission ("SEC" or "Commission") the proposed rule change as described in Items I, II, and III below, which Items have been prepared by NASD. On June 12, 2006, NASD filed amendment No. 1 to the proposed rule change.[3] The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

NASD is proposing to amend NASD Rule 2810, to address the regulation of compensation, fees, and expenses in public offerings of real estate investments trusts and direct participation programs. Below is the text of the proposed rule change. Proposed new language is in italics; proposed deletions are in brackets.

* * * * *

2810. Direct Participation Programs

(a) No Change.

(b) Requirements

(1) Application

No member or person associated with a member shall participate in a public offering of a direct participation program or a limited partnership rollup transaction *or, where expressly provided below, a real estate investment trust as defined in Rule 2340(c)(4) ("REIT")*, except in accordance with this paragraph (b), *provided however, this paragraph (b) shall not apply to an initial or secondary public offering of or a secondary market transaction in a unit, depositary receipt or other interest in a direct participation program that complies with subparagraph (2)(D).*

(2) No Change.

(3) Disclosure

(A) Through (C) No Change.

(D) Prior to executing a purchase transaction in a direct participation program *or a REIT*, a member or person associated with a member shall inform the prospective participant of all pertinent facts relating to the liquidity and marketability of the program *or REIT* during the term of the investment[;]. *Included in the pertinent facts shall be information regarding whether the sponsor has offered prior programs or REITs in which disclosed in the offering materials was a date or time period at which the program or REIT might be liquidated, and whether the prior program(s) or REIT(s) in fact liquidated on or around that date or during the time period.* [provided, however, that paragraph (b) shall not apply to an initial or secondary public offering of a secondary market transaction in a unit, depositary receipt or other interest in a direct participation program which complies with subparagraph (2)(D).]

(4) Organization and Offering Expenses

(A) No member or person associated with a member shall underwrite or participate in a public offering of a

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] In Amendment No. 1, which replaced the original filing, NASD clarified its discussion of certain of the proposed amendments, and made other technical changes.

direct participation program *or REIT* if the organization and offering expenses are not fair and reasonable, taking into consideration all relevant factors.

(B) In determining the fairness and reasonableness of organization and offering expenses for purposes of subparagraph (A) hereof, the arrangements shall be presumed to be unfair and unreasonable if:

(i) The total amount of all items of compensation from whatever source, *including offering proceeds and "trail commissions"* payable to underwriters, broker/dealers, or affiliates thereof, which are deemed to be in connection with or related to the distribution of the public offering, exceeds *an amount that equals ten percent of the gross proceeds of the offering*[currently effective compensation guidelines for direct participation programs published by the Association];[*]

(ii) Organization and offering expenses, *which include all items of compensation*, paid by a program *or REIT* in which a member or an affiliate of a member is a sponsor exceed *an amount that equals fifteen percent of the gross proceeds of the offering*[currently effective guidelines for such expenses published by the Association];[**]

(iii) No Change.

(iv) Commissions or other compensation are to be paid or awarded either directly or indirectly, to any person engaged by a potential investor for investment advice as an inducement to such advisor to advise the purchaser of interests in a particular program *or REIT*, unless such person is a registered broker/dealer or a person associated with such a broker/dealer; [or]

(v) The program *or REIT* provides for compensation of an indeterminate nature to be paid to members or persons associated with members for sales of program units *or REIT*, or for services of any kind rendered in connection with or related to the distribution thereof, including, but not necessarily limited to, the following: A percentage of the management fee, a profit sharing arrangement, brokerage commissions, and over-riding royalty interest, a net profits interest, a percentage of revenues, a reversionary interest, a working interest, a security or right to acquire a security having an indeterminate value, or other similar incentive items; [provided however, that an arrangement which provides for continuing compensation to a member or person associated with a member in connection with a public offering shall not be presumed to be unfair and unreasonable if all of the following conditions are satisfied:]

[a. the continuing compensation is to be received only after each investor in the program has received cash distributions from the program aggregating an amount equal to his cash investment plus a six percent cumulative annual return on his adjusted investment;]

[b. the continuing compensation is to be calculated as a percentage of program cash distributions;]

[c. the amount of continuing compensation does not exceed three percent for each one percentage point that the total of all compensation pursuant to subparagraph (B)(i) received at the time of the offering and at the time any installment payment is made fall below nine percent; provided, however, that in no event shall the amount of continuing compensation exceed 12 percent of program cash distributions; and]

[d. if any portion of the continuing compensation is to be derived from the limited partners' interest in the program cash distributions, the percentage of the continuing compensation shall be no greater than the percentage of program cash distributions to which limited partners are entitled at the time of the payment.]

(vi) the program or REIT charges a sales load or commission on securities that are purchased through the reinvestment of dividends, unless the registration statement registering the securities under the Securities Act of 1933 became effective prior to (the effective date of this rule amendment); or

(vii) the member has received reimbursement for due diligence expenses that are not included in a detailed and itemized invoice.

(C) The organization and offering expenses subject to the limitations in paragraph (b)(4)(B)(ii) above include the following:

(i) issuer organization and offering expenses, which include, but are not limited to: expenses, including overhead expenses, for:

a. assembling and mailing offering materials, processing subscription agreements, generating advertising and sales materials;

b. legal services provided to the sponsor or issuer;

c. salaries and non-transaction-based compensation paid to employees or agents of the sponsor or issuer for performing services for the sponsor or issuer;

d. transfer agents, escrow holders depositories, engineers and other experts, and

e. registration and qualification of securities under federal and state law, including taxes and fees and NASD fees;

(ii) underwriting compensation, which includes but is not limited to items of compensation listed in Rule 2710(c)(3) including payments:

a. to any wholesaler that is engaged in the solicitation, marketing, distribution or sales of the program or REIT securities and any employee of the wholesaler involved in the solicitation, development, maintenance and monitoring of selling agreements and relationships with broker/dealers and accounts and account holders at broker/dealers;

b. to any employee of a member and any dual employee of a member and the sponsor, issuer or other affiliate who receives transaction-based compensation unless information has been provided to NASD, with regard to a program or REIT with fewer than ten people engaged in wholesaling, from which the Corporate Financing Department can readily conclude that the payments are made as consideration for non-broker/dealer services provided to the sponsor, issuer or other affiliate; and

c. for training and education meetings, legal services provided to a member in connection with the offering and advertising and sales material generated by a member;

(iii) due diligence expenses incurred when a member affirmatively discharges its responsibilities to ensure that all material facts pertaining to a program or REIT are adequately and accurately disclosed in the offering document.

(C) through (E) Renumbered as (D) through (F)

(5) through (6) No Change.

(c) Non-Cash Compensation

(1) No Change.

(2) Restriction on Non-Cash Compensation

In connection with the sale and distribution of direct participation *program or REIT* securities, no member or person associated with a member shall directly or indirectly accept or make payments or offers of payments of any non-cash compensation, except as provided in this provision. Non-cash compensation arrangements are limited to the following:

(A) through (B) No Change.

[*A guideline for underwriting compensation of ten percent of proceeds received, plus a maximum of 0.5% for reimbursement of bona fide diligence expenses, was published in Notice to Members 82–51 (October 19, 1982).]

[**A guideline for organization and offering expenses of 15 percent proceeds received was published in Notice to Members 82–51 (October 19, 1982).]

(C) Payment or reimbursement by offerors in connection with meetings held by an offeror or by a member for the purpose of training or education of associated persons of a member, provided that:

(i) No Change.

(ii) the location is appropriate to the purpose of the meeting, which shall mean *a United States*[an] office of the offeror or the member *holding the meeting*, or a facility located in the vicinity of such office, or a *United States* regional location with respect to *meetings of associated persons who work within that region or, with respect to*[regional] meetings *with direct participation programs or REITs, a United States location at which a significant or representative asset of the program or REIT is located;*

(iii) through (iv) No Change.

(D) through (E) No Change.

(d) No Change.

* * * * *

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, NASD 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. NASD 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

NASD is proposing to amend Rule 2810 (the "Rule") to address the regulation of compensation, fees, and expenses in public offerings of direct participation programs ("DPPs") and real estate investment trusts as defined in Rule 2340(c)(4) ("REITs") (collectively "Investment Programs"). Specifically, NASD's proposed rule change would address the following issues: (1) Compensation limitations and the use and allocation of offering proceeds; (2) disclosure regarding the liquidity of prior programs offered by the same sponsor; (3) sales loads on reinvested dividends; and (4) non-cash compensation provisions regarding the appropriate location for training and education meetings.

Rule 2810 governs the underwriting terms and arrangements of DPP securities. Rule 2710 governs the underwriting terms and arrangements of REITs. However, because REITs and real estate limited partnerships are competing alternative forms of investing in real estate securities with equivalent costs of distribution, NASD's Corporate Financing Department ("Department") has applied the same underwriting and due diligence guidelines to both DPPs and REITs since the early 1980s. As discussed in more detail below, NASD proposes to amend Rule 2810 so that the Rule's compensation, disclosure and non-cash compensation provisions expressly govern REITs.

In February 2004, NASD published Notice to Members 04–07 (the "Notice") requesting comment on a proposed rule change and interpretive policies regarding the allocation of fees and expenses between issuers, sponsors and broker-dealers for Investment Programs in which the sponsors and broker-dealers offering such securities are affiliated. The Notice also addressed due diligence practices and disclosure in connection with Investment Programs as well as the allocation of underwriter compensation and issuer organization and offering expenses. The Notice also proposed prohibiting sales loads on reinvested dividends in Investment Programs and closed-end funds. Finally, the Notice requested comment on two non-cash compensation provisions in Rules 2710(i) and 2810(c): (1) a proposal to amend what would constitute an "appropriate location" for training and education meetings; and (2) the new "equal weighting" and "total production" limitations for internal sales contests.

NASD received 10 comment letters on Notice to Members 04–07 addressing the proposed rule change, which are discussed below.[4]

a. Organization and Offering Expenses

Rule 2810 currently provides three limitations on organization and offering expenses ("O & O expenses") in Investment Programs. In the current rule, as interpreted by NASD compensation guidelines, these expenses are broken down into three categories: "Compensation," "due diligence," and "issuer organization and offering expenses." First, compensation payable to underwriters, broker-dealers, or affiliates may not exceed 10 percent of the gross proceeds of the offering, regardless of the source from which it is derived. Second, members or independent due diligence firms currently may be reimbursed for an additional .5 percent for bona fide due diligence expenses. And third, total issuer O & O expenses for programs in which the member is affiliated with the program sponsor may not exceed 15 percent of the offering proceeds, including any compensation and due diligence expenses.[5] For offerings of programs in which the member is affiliated with the sponsor, this allows an additional 4.5 percent for issuer O & O expenses above the 10 percent underwriting compensation and .5 percent due diligence expenses.

As discussed below, the proposed rule change would make the Rule more explicit and objective in its treatment of the allocation of certain fees and expenses between issuer O & O and compensation (eliminating the current 0.5 percent limit on due diligence expenses) and modify the limitations pertaining to due diligence expenses.

i. Issuer Offering and Organization Expenses

Notice to Members 04–07 described the current methodology for allocating O & O expenses between compensation, due diligence and issuer O & O expenses and provided guidance on how the Department allocates certain expenses in the review process. Commenters generally supported the review procedures set out in the Notice, and the proposed rule change would codify the allocation methodologies described therein. Thus, issuer O & O expenses would include: (i) Expenses, including overhead expenses, for

[4] Comments were received from Bob Cornish (Feb. 25, 2004); Mewbourne Securities, Inc. (Roe Buckley) (March 8, 2004); Wells Investment Securities, Inc. (Philip M. Taylor) (March 11, 2004); Hines Real Estate Securities, Inc. (Leslie B. Jallans) (March 11, 2004); Pacific West Financial Group (Philip A. Pizelo) (March 11, 2004); NASAA (Ralph A. Lambiase) (March 12, 2004); CNL Securities Corp. (Robert A. Bourne) (March 12, 2004); Investment Program Association (Christopher L. Davis) (March 12, 2004); Massachusetts Securities Division (Matthew J. Nestor) (March 18, 2004); and Duane Morris (Laurence S. Lese) (April 2004).

An additional 26 comment letters received in response to Notice to Members 04–07 pertain solely to NASD's proposal to rescind an NASD interpretive policy regarding trail commissions charged by commodity DPPs. This issue was resolved separately in Notice to Members 04–50, which announced rescission of this policy effective October 12, 2004. See Notice of Filing and Immediate Effectiveness of Proposed Rule Change by the National Association of Securities Dealer, Inc. Relating to the Treatment of Commodity Pool Trail Commissions, 69 FR 45870 (July 30, 2004); Notice of Filing and Immediate Effectiveness of Proposed Rule Change by the National Association of Securities Dealers, Inc. Relating to the Implementation Date of Notice of Members 04–50 (Treatment of Commodity Pool Trail Commissions Under Rule 2810), 69 FR 55855 (September 16, 2004).

[5] See current Rule 2810(b)(4)(B)(i) and Notice to members 82–51. This 15 percent limitation on O & O expenses applies only to sponsors that are affiliated with NASD members, while the ten percent limitation applies to all DPPs and REITS.

assembling and mailing offering materials; processing subscription agreements and generating advertising and sales materials; (ii) legal services provided to the sponsor or issuer; and (iii) salaries and non-transaction-based compensation paid to employees or agents of the sponsor or issuer for performing such services. Also included would be expenses for transfer agents, escrow holders depositories, engineers and other experts, and registration and qualification of securities under Federal and state law, including taxes and fees and NASD fees.[6]

ii. Limits on Compensation

As noted above, O & O expenses include fees for underwriting compensation. The proposed rule change would clarify that amounts deducted from the offering proceeds or amounts paid to members, underwriters or affiliates as trail commissions over time are to be treated as underwriting compensation.[7] In addition, paragraph (b)(4)(B)(i) of Rule 2810 would be amended to expressly state that all items of compensation deemed to be in connection with or related to the public offering shall not exceed "ten percent of the gross proceeds of the offering."[8] Accordingly, all items of compensation paid from any source, including offering proceeds, partnership assets or management fees, would be subject to a "hard cap" of an amount that equals ten percent of gross offering proceeds.[9]

The proposed rule change also would delete paragraphs (b)(4)(B)(v)(a) through (d) of Rule 2810 relating to continuing compensation arrangements. Members have not relied on these provisions since their adoption, and the limitations on continuing compensation are included in paragraph (b)(4)(B)(i) of Rule 2810 as proposed to be amended.

iii. Dual Employees

Prior to the publication of Notice to Members 04–07, members had urged the Department not to allocate automatically all payments (e.g., salaries, bonuses, and expense reimbursements) to registered persons as underwriting compensation because their primary or secondary job responsibilities may involve providing non-distribution related services to the sponsor. Notice to Members 04–07 proposed that any salary, bonus, or other form of compensation paid to a dual employee would be allocated to the ten percent underwriting limitation if any of the employee's compensation was contingent on or varied depending on how much money is raised or the number of securities that are sold in the public offering. Commenters generally were in favor of this standard, although several commenters suggested that with respect to smaller programs, prorating a dual employee's compensation would be preferable to the objective standard described in the Notice.

Thus Rule 2810(b)(4)(C)(ii)(b) in general would provide that if the employee of a member and any dual employee of a member and the sponsor, issuer or other affiliate who receives transaction-based compensation, then payments to the employee would be treated as underwriting compensation. With regard to smaller programs with fewer than 10 people engaged in wholesaling, the proposed Rule provides that filers can provide detailed per-employee information to the Department for review. Based on its review, the Department may conclude that certain salary or other non-transaction-based payments made to a dual employee may be allocated to issuer O & O expenses notwithstanding that fact that the dual employee also received transaction-based compensation for other services.[10] For example, after reviewing the relevant documents and information, the Department may conclude that not all of the payments to an employee who is engaged only part time in wholesaling shall be deemed compensation in connection with or related to the distribution of a public offering.

iv. Wholesaling

As described in Notice to Members 04–07, the proposed rule change would require that underwriting compensation include payments to any wholesaler that is engaged in the solicitation, marketing, distribution or sales of the Investment Program securities and any employee of the wholesaler involved in the solicitation, development, maintenance and monitoring of selling agreements and relationships with broker-dealers and accounts and account holders at broker-dealers.[11] NASD staff views wholesaling as a quintessential sales activity in connection with the distribution of Investment Programs and thus should be part of underwriting compensation.

Based on comments received, however, and as discussed above, the Rule would provide NASD with the flexibility to determine on a case-by-case basis whether payments to *dual employees* of a broker-dealer, and a sponsor, issuer or other affiliate with fewer than ten people engaged in wholesaling pertain to wholesaling activities or other, non-related activities.[12]

v. Training and Education Meetings, Legal Services, and Advertising and Sales Materials

Notice to Members 04–07 described the Department's policy to allocate to underwriting compensation fees and payments for training and education meetings, legal services provided to a broker-dealer participating in the offering, and advertising and sales material generated by a broker-dealer participating in the offering. The commenters generally supported this policy, and the proposed rule change would codify this policy.[13]

vi. Due Diligence

In Notice to Members 04–07, NASD addressed due diligence practices and disclosure in connection with Investment Programs. Specifically NASD reminded members that for purposes of the current .5 percent allowance for bona fide due diligence expenses, "due diligence expenses" relate only to those expenses incurred when the member affirmatively discharges its responsibilities to ensure that all material facts pertaining to a program are adequately and accurately disclosed in the offering document.[14] The following principles were outlined in the Notice:

- Any due diligence payment or reimbursement that is mischaracterized in a filing with NASD or in an offering document would be deemed to be undisclosed underwriting compensation, and the mischaracterization would violate NASD rules and the federal securities laws. Accordingly, members may include only their actual costs incurred for bona fide due diligence expenses.
- Any reimbursement that includes a profit margin to the member will be

[6] See proposed amendment to Rule 2810(b)(4)(c)(i).

[7] See proposed amendment to Rule 2810(b)(4)(B)(i).

[8] The ten percent figure currently is NASD policy and not in the text of the Rule.

[9] An alternative fifteen percent limitation on all items of compensation in which a member or an affiliate of a member is a sponsor is discussed in the text accompanying footnote 16.

[10] See proposed amendment to Rule 2810(b)(4)(C)(ii)(b). These review provisions related to smaller programs apply only to dual employees of a broker-dealer and the sponsor, issuer or other affiliate. Conversation between Joseph Price, Vice President, NASD Corporate Financing Department, and Michael Hershaft, Special Counsel, SEC, June 30, 2006.

[11] Proposed amendment to Rule 2810(b)(C)(ii)(a).

[12] Proposed amendment to Rule 2810(b)(C)(ii)(b).

[13] Proposed amendment to Rule 2810(b)(C)(ii)(c).

[14] NASD proposes to codify this requirement at 2810(b)(4)(c)(iii).

deemed to be underwriting compensation subject to the ten percent limitation, whether or not the member claims that the reimbursement was for "due diligence expenses."

• A sponsor may not reimburse a member for activities that are inconsistent with the due diligence objective, such as golf outings, cruises, tours, and other forms of entertainment.

• Members should expect the Department to request a copy of any due diligence meeting agenda to verify that the meeting served a bona fide due diligence purpose.

Commenters strongly supported clarification of the treatment of due diligence expenses under Rule 2810. NASD recognizes that conducting appropriate due diligence in connection with Investment Program offerings is an important part of protecting investors and satisfying members' obligations to their customers. However, NASD also is concerned that some members may have merely "piggybacked" on the due diligence of others and accepted reimbursements that amounted to little more than an additional fifty basis points of underwriting compensation. Accordingly, the proposed rule change would require that a member not accept any payments or reimbursements for due diligence expenses unless they are included in a detailed and itemized invoice that is presented by the member to the program sponsor or other entity that pays or reimburses due diligence expenses.[15] In addition, the proposal would eliminate the current .5 percent limit on due diligence expenses currently applicable to Rule 2810. NASD believes that the current cap may unnecessarily limit members' bona fide due diligence activities. Instead, the maximum amount of O & O expenses would remain fifteen percent of the gross offering proceeds (which amount would include: (1) Issuer O & O expenses; (2) compensation up to the maximum of ten percent of gross proceeds; and (3) due diligence expenses that are supported by a detailed and itemized invoice).[16]

b. Liquidity Disclosure

The prospectuses of Investment Programs typically establish a date or time period when an investment will become liquid: either the assets of the Investment Program will be liquidated and the proceeds distributed to shareholders, or the Program may become listed on a national securities exchange or quoted on NASDAQ. Most prospectuses also provide that the liquidity event may be delayed due to market conditions or other factors.

Rule 2810(b)(3)(D) currently provides that prior to executing a purchase transaction in a direct participation program, a member or person associated with a member shall inform the prospective participant of all pertinent facts relating to the liquidity and marketability of the program during the term of the investment. NASD is concerned that some investors do not fully appreciate that the liquidation of some sponsors' programs are frequently delayed. The proposal would amend Rule 2810(b)(3)(D) to include REITs as defined in Rule 2340(c)(4), and to require members and their associated persons to inform prospective investors whether the sponsor has offered prior programs for which the prospectus disclosed a date or time period when the program might be liquidated, and whether the prior programs in fact liquidated on or around that date or time period. Members selling Investment Programs would have to disclose whether prior programs offered by the program sponsor liquidated on or during the date or time period disclosed in the prospectuses for those programs. For example, if a sponsor has offered ten prior programs and only two of them liquidated by the date or time period set forth in the prospectus, the member would be required to disclose these facts.

NASD recognizes that delays in liquidity may be due to market conditions and other factors beyond the sponsor's control, and that in some cases, investors may benefit from delays in liquidity. Importantly, the proposed rule change would not require liquidations in the time periods specified. However, NASD believes that investors should be provided with the sponsor's track record as an additional piece of data upon which to base an investment decision.

c. Sales Loads on Reinvested Dividends

Notice to Members 04–07 requested comment on amending Rule 2810 to prohibit commissions (sales loads) on reinvested dividends in Investment Programs.[17] NASD made similar amendments in April 2000 to the Investment Company Rule (Rule 2830), which prohibits members from offering or selling shares of an investment company if it has a front-end or deferred sales charge imposed on shares purchased through the reinvestment of dividends. Three commenters supported NASD's proposal to prohibit loads on reinvested dividends in Investment Programs. One commenter suggested that the industry currently is moving in the direction of eliminating sales loads on shares purchased through dividend reinvestment programs, which reflects a desire among certain issuers and broker-dealers to allow stockholders to reinvest in companies at reduced prices. Another commenter suggested that, for most customers, the reinvestment of dividends typically does not involve a separate investment decision. This commenter also suggested that distributions in DPP investments often involve substantial returns of capital and that charging a commission for reinvesting those funds can result in double selling compensation. The third commenter suggested that a sales load on reinvested dividends is another means to increase overall sales commissions and that investors generally perceive dividend reinvestment plans as transactions without expenses.

Three commenters opposed prohibiting sales loads on reinvested dividends because members provide more ongoing services in connection with DPP and REIT dividend reinvestment programs than with mutual fund dividend reinvestment programs. One commenter noted that registered representatives involved in dividend reinvestment plans of DPP and REIT programs usually continue to monitor their client's financial portfolios and perform valuable services for their clients on an ongoing basis. The commenter suggested that when a registered representative determines that a specific investor has reached an adequate level of real estate diversification in his/her portfolio, the financial planner would advise the investor to discontinue further investments in the applicable dividend reinvestment plan.

One commenter also stated that due to limited liquidity opportunities, registered representatives who place their clients in DPP and REIT programs must also monitor the program portfolio (in addition to their clients' portfolios) more closely than their counterparts who place their clients in liquid investments such as mutual funds. This commenter noted that in order to properly advise a client on whether to make an additional investment in REITs

[15] See proposed amendment to Rule 2810(b)(4)(B)(vii).

[16] See proposed amendment to Rule 2810(b)(4)(B)(ii).

[17] Notice to Members 04–07 also requested comment on prohibiting sales loads on reinvested dividends for closed-end funds. No commenters addressed this proposal. NASD does not propose amending rule 2710 to address closed-end funds in this filing, which is limited to regulatory proposals involving DPPs and REITs. NASD will further consider whether it is appropriate to adopt amendments prohibiting sales loads on reinvested dividends for closed-end funds.

and DPPs, whether through a dividend reinvestment program or otherwise, or whether to apply for participation in a redemption program, the registered representative must continually review and analyze the properties in the investment portfolio, prevailing market conditions, and the management of the portfolio by the sponsor. The commenter stated that registered representatives should be compensated for this ongoing review and analysis because they are providing a valuable service to their clients. The commenter also noted that, without such compensation, the registered representatives might not be as motivated to do this work, which is in the interests of their clients.

NASD has determined to move forward with its proposal to prohibit loads on reinvested dividends for Investment Programs after the effective date of this rule amendment.[18] In response to commenters who believe loads on reinvested dividends are necessary in order to compensate registered representatives for providing ongoing services for Investment Programs, NASD notes that Rule 2810 allows for the receipt of trail commissions (up to the limits on underwriting compensation) to compensate them for such ongoing services.[19]

NASD does not believe that sales loads on reinvested dividends are necessary or should be used to finance monitoring of client positions and client communication. Since many dividends in Investment Programs include a return of principal invested, allowing a sales load on reinvested dividends would amount to a double charge to the investor in the NASD's view. In addition, NASD believes that many investors may be confused about what sales loads on reinvested dividends are and why they are paying them, since they may not view the reinvestment of dividends as a separate investment decision for which a sales charge would be levied.

d. Non-Cash Compensation Provisions

i. Location of Training and Education Meetings

The non-cash compensation provisions of Rule 2810 currently permit payments and reimbursements by an offeror in connection with training and education meetings, if the meetings meet the conditions of the Rule. One of the current conditions is the requirement that:

"The location is appropriate to the purpose of the meeting, which shall mean an office of the issuer or affiliate thereof, the office of the member, or a facility located in the vicinity of such office, or a regional location with respect to regional meetings."[20]

The proposed rule change would amend the Rule to provide that an "appropriate location" for a training and education meeting may include a location at which a significant or representative Investment Program asset is located. The proposed rule change would address the fact that an important part of bona fide training and education meetings for Investment Programs may be inspecting real estate, oil and gas production facilities, and other types of assets that will be held and managed by the program.[21]

This amendment was proposed in Notice to Members 04–07, and the commenters generally supported this proposed rule change. Commenters agreed that an important part of bona fide training and education meetings is inspecting real estate, oil and gas production facilities, and other types of assets held and managed by the program. Two commenters noted that it is especially important for associated persons to visit an issuer's assets to better understand the business of the issuer when selling non-liquid investments to customers whose money may be locked up for significant time periods. The commenters did not believe that it would be difficult to determine whether an asset is "significant" to a program and did not think that this determination would complicate the ability of a member's legal or compliance staff to decide whether associated persons should attend a particular meeting.

Two commenters to Notice to Members 04–07 suggested that NASD issue a comment indicating that significance might vary from program to program and may be determined based on various criteria in addition to the size of the asset. The commenters noted that an asset may be significant because it reflects a new segment or asset class in which an issuer has determined to invest or because it is representative of a geographic focus of the issuer. The commenters also suggested that the proposed rule language should be broadened to include "a location at which a significant or representative asset of the program is located." This addition would allow associated persons to visit program assets in conjunction with training and education meetings even if a program's assets are of approximately the same size or type or are located in one geographic area. The commenters noted that associated persons still have a great interest in visiting assets of a program that consists of similar assets.

Three commenters to Notice to Members 04–07 stated that they do not believe that the proposed amendments relating to the location of training and education meetings would create a significant risk that locations would be chosen to provide incentives and awards for selling products. Two commenters noted that the non-cash compensation provisions of Rule 2810 provide that training and education meetings may not be conditioned on meeting sales thresholds and may not include payments for expenses of guests. The commenters stated that the industry is aware that agendas must address training and education activities and should not include extracurricular activities such as golf outings.

Based on the foregoing, NASD is proposing to amend Rule 2810 to provide that a training and education meeting may include a location at which a "significant or representative" asset is located.[22]

ii. Total Production and Equal Weighting Requirements

In Notice to Members 04–07, NASD proposed to amend Rule 2810 to incorporate the total production and equal weighting conditions for internal sales contests in the Investment Company Rule (Rule 2820) and the Variable Contracts Rule (Rule 2830) into Rule 2810. Subsequently, in June 2005, NASD published Notice to Members 05–40 proposing to expand the prohibitions on non-cash compensation to the sale and distribution of any security, not just the securities of DPPs, REITs, investment companies and variable insurance contracts. NASD staff will

[18] See proposed amendments to Rule 2810(b)(4)(B)(vi).

[19] See proposed amendments to Rule 2810(b)(4)(B)(i).

[20] See proposed amendments to Rule 2810(b)(2)(c)(ii). NASD interprets the clause "regional location with respect to regional meetings" in the Rules to permit regional meetings held for the convenience of regional broker-dealers and their associated persons, not national meetings held in regional locations.

[21] As discussed above, NASD proposes to amend Rule 2810 so that the Rule's compensation, disclosure and non-cash compensation provisions expressly govern illiquid REITs (*i.e.*, REITs as defined in Rule 2340(c)(4)). The proposed rule change would not amend the non-cash compensation provisions in Rule 2710, which currently are identical to those in Rule 2810. Accordingly, the non-cash compensation provisions regarding the location of training and education meetings will be different for exchange-traded REITs under Rule 2710 and illiquid REITs under Rule 2810.

[22] See proposed amendment to Rule 2810(c)(2)(C)(ii).

consider whether any additional amendments are necessary to the non-cash compensation provisions of Rule 2810 in the context of that rulemaking initiative.

e. Effective Date of the Proposed Rule Change

NASD will announce the effective date of the proposed rule change in a Notice to Members to be published no later than 60 days following Commission approval. The effective date will be 30 days following publication of the Notice to Members announcing Commission approval.

2. Statutory Basis

NASD believes that the proposed rule change is consistent with the provisions of Section 15A(b)(6) of the Act, which requires, among other things, that NASD's rules must be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, and, in general, to protect investors and the public interest. Specifically, NASD believes that the proposed rule change amends Rule 2810 to provide greater clarity regarding limitations on compensation, fees, and expenses in public offerings of REITs and DPPs.

B. Self-Regulatory Organization's Statement on Burden on Competition

NASD 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

The proposed rule change was published for comment in NASD Notice to Members 04–07 (February 2004). Ten comments were received in response to the Notice.[23] All of the comment letters received were generally in favor of the proposed rule change, and are further discussed in Item II of this notice.

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 self-regulatory organization consents, the Commission will:

(A) By order approve such proposed rule change, or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an e-mail to *rule-comments@sec.gov*. Please include File Number SR–NASD–2005–114 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–2005–114. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room, 100 F Street, NE., Washington, DC 20549. Copies of such 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–2005–114 and should be submitted on or before August 7, 2006.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[24]

Jill M. Peterson,

Assistant Secretary.

[FR Doc. E6–11208 Filed 7–14–06; 8:45 am]

BILLING CODE 8010–01–P

[23] See note 1, supra.

[24] 17 CFR 200.30–3(a)(12).

SMALL BUSINESS ADMINISTRATION

[Disaster Declaration # 10519 and # 10520]

New York Disaster # NY–00022

AGENCY: U.S. Small Business Administration.

ACTION: Notice.

SUMMARY: This is a Notice of the Presidential declaration of a major disaster for the State of New York (FEMA–1650–DR), dated 7/03/2006.

Incident: Severe Storms and Flooding.

Incident Period: 6/26/2006 and continuing.

Effective Date: 7/3/2006.

Physical Loan Application Deadline Date: 9/1/2006.

Economic Injury (EIDL) Loan Application Deadline Date: 4/3/2007.

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 President's major disaster declaration on 7/3/2006, 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 (Physical Damage and Economic Injury Loans):

Broome, Chenango, Delaware, Herkimer, Montgomery, Oneida, Orange, Otsego, Schoharie, Sullivan, Tioga, Ulster.

Contiguous Counties (Economic Injury Loans Only):

New York: Albany, Chemung, Columbia, Cortland, Dutchess, Fulton, Greene, Hamilton, Lewis, Madison, Oswego, Putnam, Rockland, Saratoga, Schenectady, St. Lawrence, Tompkins.

New Jersey: Passaic, Sussex.

Pennsylvania: Bradford, Pike, Susquehanna, Wayne.

The Interest Rates are:

	Percent
For Physical Damage:	
Homeowners With Credit Available Elsewhere:	5.875
Homeowners Without Credit Available Elsewhere:	2.937
Businesses With Credit Available Elsewhere:	7.763
Businesses and Non-Profit Organizations Without Credit Available Elsewhere:	4.000
Other (Including Non-Profit Organizations) With Credit Available Elsewhere:	5.000
For Economic Injury:	
Businesses & Small Agricultural Cooperatives Without Credit Available Elsewhere:	4.000

The number assigned to this disaster for physical damage is 10519 C and for economic injury is 10520 0.

(Catalog of Federal Domestic Assistance Numbers 59002 and 59008)

Herbert L. Mitchell,

Associate Administrator for Disaster Assistance.

[FR Doc. E6–11148 Filed 7–14–06; 8:45 am]

BILLING CODE 8025–01–P

SMALL BUSINESS ADMINISTRATION

[Disaster Declaration # 10515 and # 10516]

Pennsylvania Disaster # PA–00004

AGENCY: U.S. Small Business Administration.

ACTION: Notice.

SUMMARY: This is a Notice of the Presidential declaration of a major disaster for the State of Pennsylvania (FEMA–1649–DR), dated 07/04/2006

Incident: Severe Storms, Flooding, and Mudslides.

Incident Period: 06/23/2006 and continuing.

Effective Date: 07/04/2006.

Physical Loan Application Deadline Date: 09/05/2006.

Economic Injury (EIDL) LOAN Application Deadline Date: 04/04/2007.

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 President's major disaster declaration on 07/04/2006, 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 (Physical Damage and Economic Injury Loans):

Monroe, Schuylkill, Susquehanna, Wayne, Wyoming.

Contiguous Counties (Economic Injury Loans Only):

Pennsylvania: Berks, Bradford, Carbon, Columbia, Dauphin, Lackawanna, Lebanon, Lehigh, Luzerne, Northampton, Northumberland, Pike, Sullivan.

New Jersey: Sussex, Warren.

New York: Broome, Delaware, Sullivan, Tioga.

The Interest Rates are:

	Percent
For Physical Damage:	
Homeowners With Credit Available Elsewhere	5.875.
Homeowners Without Credit Available Elsewhere	2.937.
Businesses With Credit Available Elsewhere	7.763.
Businesses and Non-Profit Organizations Without Credit Available Elsewhere	4.000.
Other (Including Non-Profit Organizations) With Credit Available Elsewhere	5.000.
For Economic Injury:	
Businesses & Small Agricultural Cooperatives Without Credit Available Elsewhere	4.000.

The number assigned to this disaster for physical damage is 10515 C and for economic injury is 10516 0.

(Catalog of Federal Domestic Assistance Numbers 59002 and 59008)

Herbert L. Mitchell,

Associate Administrator for Disaster Assistance.

[FR Doc. E6–11147 Filed 7–14–06; 8:45 am]

BILLING CODE 8025–01–P

SMALL BUSINESS ADMINISTRATION

[Disaster Declaration #10515 and #10516]

Pennsylvania Disaster Number PA–00004

AGENCY: U.S. Small Business Administration.

ACTION: Amendment 1.

SUMMARY: This is an amendment of the Presidential declaration of a major disaster for the Commonwealth of Pennsylvania (FEMA–1649–DR), dated 7/4/2006.

Incident: Severe Storms, Flooding, and Mudslides.

Incident Period: 6/23/2006 and continuing.

Effective Date: 7/5/2006.

Physical Loan Application Deadline Date: 9/5/2006.

EIDL Loan Application Deadline Date: 4/4/2007.

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, Suite 6050, Washington, DC 20416.

SUPPLEMENTARY INFORMATION: The notice of the Presidential disaster declaration for the Commonwealth of Pennsylvania, dated 7/4/2006 is hereby amended to include the following areas as adversely affected by the disaster:

Primary Counties:

Berks, Chester, Pike.

Contiguous Counties:

Delaware: New Castle.

Maryland: Cecil.

New York: Orange.

Pennsylvania: Delaware, Lancaster, Montgomery.

All other information in the original declaration remains unchanged.

(Catalog of Federal Domestic Assistance Numbers 59002 and 59008)

Herbert L. Mitchell,

Associate Administrator for Disaster Assistance.

[FR Doc. E6–11149 Filed 7–14–06; 8:45 am]

BILLING CODE 8025–01–P

SMALL BUSINESS ADMINISTRATION

[Disaster Declaration #10525 and #10526]

New Jersey Disaster #NJ–00004

AGENCY: U.S. Small Business Administration.

ACTION: Notice.

SUMMARY: This is a Notice of the Presidential declaration of a major disaster for the State of New Jersey (FEMA–1653–DR), dated 07/07/2006.

Incident: Severe Storms and Flooding.

Incident Period: 06/23/2006 and continuing.

Effective Date: 07/07/2006.

Physical Loan Application Deadline Date: 09/05/2006.

Economic Injury (EIDL) Loan Application Deadline Date: 04/09/2007.

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 President's major disaster declaration on 07/07/2006, 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 (Physical Damage and Economic Injury Loans):

Hunterdon, Mercer, Warren.

Contiguous Counties (Economic Injury Loans Only):

New Jersey: Burlington, Middlesex, Monmouth, Morris, Somerset, Sussex.

Pennsylvania: Bucks, Monroe, Northampton.

The Interest Rates are:

	Percent
For Physical Damage:	
Homeowners With Credit Available Elsewhere	5.875
Homeowners Without Credit Available Elsewhere	2.937
Businesses With Credit Available Elsewhere	7.763
Businesses and Non-Profit Organizations Without Credit Available Elsewhere	4.000
Other (Including Non-Profit Organizations) With Credit Available Elsewhere	5.000
For Economic Injury:	
Businesses & Small Agricultural Cooperatives Without Credit Available Elsewhere	4.000

The number assigned to this disaster for physical damage is 10525 B and for economic injury is 10526 0.

(Catalog of Federal Domestic Assistance Numbers 59002 and 59008)

Roger B. Garland,

Acting Associate Administrator for Disaster Assistance.

[FR Doc. E6–11144 Filed 7–14–06; 8:45 am]

BILLING CODE 8025–01–P

SMALL BUSINESS ADMINISTRATION

[Disaster Declaration #10521 and #10522]

Ohio Disaster #OH–00006

AGENCY: U.S. Small Business Administration.

ACTION: Notice.

SUMMARY: This is a Notice of the Presidential declaration of a major disaster for the State of Ohio (FEMA–1651–DR), dated 7/2/2006.

Incident: Severe Storms and Flooding.

Incident Period: 6/21/2006 through 6/23/2006.

Effective Date: 7/2/2006.

Physical Loan Application Deadline Date: 8/31/2006.

Economic Injury (EIDL) Loan Application Deadline Date: 4/2/2007.

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 President's major disaster declaration on 7/2/2006, 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 (Physical Damage and Economic Injury Loans):

Cuyahoga, Erie, Huron, Lucas, Sandusky, Stark.

Contiguous Counties (Economic Injury Loans Only):

Ohio: Ashland, Carroll, Columbiana, Crawford, Fulton, Geauga, Henry, Holmes, Lake, Lorain, Mahoning, Medina, Ottawa, Portage, Richland, Seneca, Summit, Tuscarawas, Wayne, and Wood.

Michigan: Lenawee, Monroe.

The Interest Rates are:

	Percent
For Physical Damage:	
Homeowners With Credit Available Elsewhere	5.875
Homeowners Without Credit Available Elsewhere	2.937
Businesses With Credit Available Elsewhere	7.763
Businesses And Non-Profit Organizations Without Credit Available Elsewhere	4.000
Other (Including Non-Profit Organizations) With Credit Available Elsewhere	5.000
For Economic Injury:	
Businesses & Small Agricultural Cooperatives Without Credit Available Elsewhere	4.000

The number assigned to this disaster for physical damage is 10521 C and for economic injury is 10522 0.

(Catalog of Federal Domestic Assistance Numbers 59002 and 59008)

Herbert L. Mitchell,

Associate Administrator for Disaster Assistance.

[FR Doc. E6–11143 Filed 7–14–06; 8:45 am]

BILLING CODE 8025–01–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Third Meeting: Special Committee 209, Air Traffic Control Radar Beacon Systems (ATCRBS)/Mode S Transponder

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of RTCA Special Committee 209, ATCRBS/Mode S Transponder.

SUMMARY: The FAA is issuing this notice to advise the public of a meeting of RTCA Special Committee 209, Air Traffic Control Radar Beacon Systems (ATCRBS)/Mode S Transponder.

DATES: The meeting will be held August 8, 2006, from 9 a.m.–5 p.m., and August 9, from 9 a.m.–4 p.m.

ADDRESSES: The meeting will be held at RTCA, Inc., 1828 L Street NW., Suite 805, Washington, DC 20036.

FOR FURTHER INFORMATION CONTACT: RTCA Secretariat, 1828 L Street, NW., Suite 805, Washington, DC 20036; telephone (202) 833–9339; fax (202) 833–9434; 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 209 meeting. The agenda will include:

August 8–9:

- Opening Plenary Session (Welcome, Introductions, and Administrative Remarks, Review/Approval of Agenda, Review/Approval of Minutes from Meeting #2).
- Report from Team reviewing the ADLP MOPS, DO–218B.
- Report from Team reworking DO–181C.
- Report from Team reviewing the update of Test Procedures.

- Proposed Changes to the Test Procedures.
- Status of the ED–73B/DO–181C Requirements Comparison data base.
- Status of the coordination with WG–49.
- Review Status of Action Items.
- Closing Plenary Session (Other Business, Discussion of Agenda for Next Meeting, Date, Place and Time of Future Meeting, Adjourn).

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 in 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 July 7, 2006.

Francisco Estrada C.,

RTCA Advisory Committee.

[FR Doc. 06–6243 Filed 7–14–06; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA–LU); Value Pricing Pilot Program Participation

AGENCY: Federal Highway Administration (FHWA), DOT.

SUMMARY: This notice revises a previous notice, published in the **Federal Register** on January 6, 2006 (71 FR 970), which invited State and local governments and other public authorities to apply to participate in the Value Pricing Pilot (VPP) program and presented guidelines for program applications. That notice described the statutory basis for the VPP program and updated a previous notice published in the **Federal Register** on May 7, 2001 (66 FR 23077), by providing revised procedures, process timelines, and guidance for program participation. The purpose of today's notice is to announce a delay in the consideration of applications for fiscal year (FY) 2007 funds and to temporarily suspend the deadlines to apply for such funds. The purpose of this delay is to allow the FHWA to revise the VPP program guidance to solicit certain types of projects that further the goals of the Secretary of Transportation's new National Strategy to Reduce Congestion on America's Transportation Network, announced on May 16, 2006.[1]

DATES: This notice temporarily suspends the due dates for Expressions of Interest and formal grant applications for FY 2007 VPP program funds that were published in the January 6, 2006 notice. A subsequent notice will be issued providing new deadlines along with revised guidelines for applications.

FOR FURTHER INFORMATION CONTACT: For questions about this notice, contact Mr. Wayne Berman, Office of Operations, (202) 366–4069, or via e-mail at *wayne.berman@fhwa.dot.gov;* for specific information about the Value Pricing Pilot Program, contact Mr. Patrick DeCorla-Souza, Office of Operations, (202) 366–4076, or via e-mail at *patrick.decorla-souza@fhwa.dot.gov;* and for legal questions, Mr. Michael Harkins, Office of the Chief Counsel, (202) 366–4928; *Michael.harkins@dot.gov.* The FHWA is located at 400 Seventh Street, SW., Washington, DC, 20590, and office hours are from 7:45 a.m. to 4:15 p.m., e.t., Monday through Friday, except Federal holidays.

SUPPLEMENTARY INFORMATION:

Electronic Access

An electronic copy of this document may be downloaded from the **Federal Register**'s home page at: *http://www.archives.gov* and the Government Printing Office's database at: *http://www.access.gpo.gov/nara.*

Background

Section 1012(b) of the Intermodal Surface Transportation Efficiency Act (ISTEA) (Pub. L. 102–240; 105 Stat. 1914), as amended by section 1216(a) of the Transportation Equity Act (TEA–21) (Pub. L. 105–178; 112 Stat. 107), and section 1604(a) of Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA–LU) (Pub. L. 109–59; 119 Stat. 1144), authorizes the Secretary of Transportation (the Secretary) to create a Value Pricing Pilot (VPP) program. Value pricing encompasses a variety of strategies to manage congestion on highways, including tolling of highway facilities, as well as other strategies that do not involve tolls. A maximum of $12 million is authorized for each of the fiscal years 2006 through 2009 to be made available to carry out the VPP program requirements. Of these amounts, the statute requires the Secretary to set-aside $3 million for each of fiscal years 2006 through 2009 for value pricing pilot projects that do not involve highway tolls.

The Federal share payable under the program is 80 percent of the cost of the project. The Secretary is required to report to Congress every two years on the effects of all value pricing pilot programs. In the FHWA's January 6, 2006, **Federal Register** notice, the FHWA established deadlines for expressions of interest and project applications for VPP project funding requests.

Temporary Suspension of Application Deadlines

Today's notice delays consideration of applications for FY 2007 VPP program funds and temporarily suspends the deadlines to apply for such funds. Under the January 6, 2006, notice formal applications for FY 2007 funds were to be due by October 1, 2006, and Expressions of Interest were to be required two months prior, by August 1, 2006, to be assured of the maximum amount of constructive assistance from the FHWA in preparing formal applications.

The purpose of this delay is to allow the FHWA to revise the VPP program guidance to solicit certain types of projects that further the goals of the Secretary of Transportation's new National Strategy to Reduce Congestion on America's Transportation Network, announced on May 16, 2006. This national strategy contains a number of elements that involve pricing, and thus a reconsideration of the types of projects that are being solicited for VPP program participation is warranted to ensure consistency with the national strategy. Value Pricing Pilot program participants, and potential participants, may continue to submit Expressions of Interest for VPP projects that do not involve requests for VPP funding and for which only tolling authority is requested.

Authority: 23 U.S.C. 315; sec. 1012(b), Public Law 102–240, 105 Stat. 1914, as amended by sec. 1216(a), Public Law 105–178, 112 Stat. 107 and Public Law 109–59; 117 Stat. 1144; 49 CFR 1.48.

Issued on: July 12, 2006.

Frederick G. Wright, Jr.,

Federal Highway Executive Director.

[FR Doc. E6–11275 Filed 7–14–06; 8:45 am]

BILLING CODE 4910–22–P

[1] Speaking before the National Retail Federation's annual conference May 16, 2006, in Washington DC. U.S. Transportation Secretary Norman Mineta unveiled a new plan to reduce congestion plaguing America's roads, rail and airports. The National Strategy to Reduce Congestion on America's Transportation Network includes a number of initiatives designed to reduce transportation congestion. The transcript of these remarks is available at the following URL: *http://www.dot.gov/affairs/minetasp051606.htm.*

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Finance Docket No. 34838]

The Arkansas, Louisiana & Mississippi Railroad Company—Lease and Operation Exemption—Union Pacific Railroad Company

The Arkansas, Louisiana & Mississippi Railroad Company (AL&M), a Class III rail carrier, has filed a verified notice of exemption under 49 CFR 1150.41 to lease and operate approximately 4.24 miles of Union Pacific Railroad Company (UP) rail line between milepost 551.76, a point north of Bastrop, LA, and milepost 556.0, a point south of Bastrop, LA. The transaction includes the line, known as UP's Bastrop Industrial Lead, and all associated yard track.

AL&M 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. But, because AL&M's projected annual revenues will exceed $5 million, it certified to the Board on February 17, 2006, that it posted a copy of a notice at the workplace of the employees on the affected line and sent the required notice to the national offices of all labor unions representing those employees. *See* 49 CFR 1150.42(e).

The transaction was scheduled to be consummated on or after July 5, 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. 34838, 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 Eric M. Hocky, Esq., Gollatz, Griffin & Ewing, P.C., Four Penn Center, Suite 200, 1600 John F. Kennedy Blvd., Philadelphia, PA 19103–2808.

Board decisions and notices are available on our Web site at *http://www.stb.dot.gov*.

Decided: July 10, 2006.

By the Board, David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams,

Secretary.

[FR Doc. E6–11102 Filed 7–14–06; 8:45 am]

BILLING CODE 4915–01–P

DEPARTMENT OF THE TREASURY

Submission for OMB Review; Comment Request

July 11, 2006.

The Department of the Treasury has submitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1995, Public Law 104–13. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, Room 11000, 1750 Pennsylvania Avenue, NW., Washington, DC 20220.

DATES: Written comments should be received on or before August 16, 2006 to be assured of consideration.

Internal Revenue Service (IRS)

OMB Number: 1535–0004.
Type of Review: Extension.
Title: Special Form of Request for Payment of U.S. Savings and Retirement Sec. Where Use of a Detached Request is Authorized.
Form: PD F 1522.
Description: The form is used to request payment of U.S. Savings Securities.
Respondents: Individuals and households.
Estimated Total Burden Hours: 14,000 hours.

OMB Number: 1535–0008.
Type of Review: Extension.
Title: Request for Reissue of U.S. Savings Bonds to Remove Name of One or More Living Registrants.
Form: PD F 1938.
Description: The form is used to request reissue of savings bonds to remove one or more living registrants.
Respondents: Individuals or households.
Estimated Total Burden Hours: 14,529 hours.

OMB Number: 1535–0014.
Type of Review: Extension.
Title: Claim for Lost, Stolen, or Destroyed United States Registered Securities.
Form: PD F 1025.
Description: The form is used to support request for relief of lost, stolen, or destroyed U.S. Registered Securities.
Respondents: Individuals or households.
Estimated Total Burden Hours: 460 hours.

OMB Number: 1535–0015.
Type of Review: Extension.
Title: Report/Appl. For Relief of Loss, Theft, or Destruction of U.S. Bearer Securities.
Form: PD F 1022.
Description: The form is used to obtain relief for lost, stolen, or destroyed bearer securities.
Respondents: Business or other for-profit, not-for-profit institutions, Federal, state, local, and tribal governments.
Estimated Total Burden Hours: 92 hours.

OMB Number: 1535–0016.
Type of Review: Extension.
Title: Report/Appl. For Relief of Loss, Theft, Destruction of U.S. Bearer Securities.
Form: Form 1022–1.
Description: The form is used by individuals to request relief of the loss, theft, or destruction of bearer securities.
Respondents Individuals or households.
Estimated Total Burden Hours: 92 hours.

OMB Number: 1535–0067.
Type of Review: Extension.
Title: Affidavit of Forgery For United States Savings Bonds.
Form: PD F 0974.
Description: The form is used to certify that a signature was forged for a United States Savings Bond.
Respondents: Individuals or households.
Estimated Total Burden Hours: 625 hours.

OMB Number: 1535–0098.
Type of Review: Extension.
Title: Claim for Relief on Account of the Non-Receipt of United States Savings Bonds.
Form: PD F 3062–4.
Description: The form is used by the application by the owner of a U.S. Savings Bond to request a substitute bond in lieu of a bond not received.
Respondents: Individuals or households.
Estimated Total Burden Hours: 4,175 hours.

Clearance Officer: Vicki S. Thorpe, (304) 480–8150, Bureau of the Public Debt, 200 Third Street, Parkersburg, West Virginia 26106.

OMB Reviewer: Alexander T. Hunt, (202) 395–7316, Office of Management and Budget, Room 10235, New Executive Office Building, Washington, DC 20503.

Robert Dahl,

Treasury PRA Clearance Officer.

[FR Doc. E6–11146 Filed 7–14–06; 8:45 am]

BILLING CODE 4810–39–P

DEPARTMENT OF THE TREASURY

Submission for OMB Review; Comment Request

July 10, 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 August 16, 2006 to be assured of consideration.

Internal Revenue Service (IRS)

OMB Number: 1545–2009.
Type of Review: Extension.
Title: Reducing Tax Burden on America's Taxpayers.
Description: The IRS Office of Taxpayer Burden Reduction (TBR) needs the taxpaying public's help to identify meaningful taxpayer burden reduction opportunities that impact a large number of taxpayers. This form should be used to refer ideas for reducing taxpayer burden to the TBR for consideration and implementation.
Respondents: Business or other for-profit, individuals and households, not-for-profit institutions, state, local or tribal governments, and farms.
Estimated Total Burden Hours: 62 hours.

OMB Number: 1545–2011.
Type of Review: Extension.
Title: Certification of Intent to Adopt a Pre-Approved Plan.
Form: 8905.
Description: Form 8905 is used to treat an employer's plan as a pre-approved plan and therefore eligible for the six-year remedial amendment cycle of Part IV of Revenue Procedure 2005–66, 2005–37 IRB 509. This form is filed with other documents.
Respondents: Business or other for-profit and not-for-profit institutions.
Estimated Total Burden Hours: 110,490 hours.

OMB Number: 1545–1850.
Type of Review: Extension.
Title: COREG–140930–02 (Final) Testimony or Production of Records in a Court or Other Proceeding.
Description: A written statement required by a party seeking testimony or disclosure of IRS records or information in a non-IRS matter.
Respondents: Business or other for-profit, individuals or households, not-for-profit institutions, farms.
Estimated Total Burden Hours: 1,400 hours.

OMB Number: 1545–0162.
Type of Review: Revision.
Title: Credit for Federal Tax Paid on Fuels.
Form: Form 4136.
Description: Internal Revenue Code section 34 allows a credit for Federal excise tax for certain fuel uses. This form is used to figure the amount of the income tax credit. The data is used to verify the claim for the type of nontaxable or exempt use.
Respondents: Business or other for-profit, individuals and households.
Estimated Total Burden Hours: 9,822,578 hours.

OMB Number: 1545–1998.
Type of Review: Extension.
Title: Alternative Motor Vehicle Tax Credit.
Form: Form 8910.
Description: Taxpayers will use Form 8910 to claim the credit for certain alternative motor vehicles placed in service after 2005.
Respondents: Business or other for-profit, individuals and households, not-for-profit institutions, farms, Federal government, and state and local governments.
Estimated Total Burden Hours: 98,800 hours.

OMB Number: 1545–0046.
Type of Review: Extension.
Title: Reduction of Tax Attributes Due to Discharge of Indebtedness (and Section 1082 Basis Adjustment).
Form: Form 982.
Description: Internal Revenue Code section 108 allows taxpayers to exclude from gross income amounts attributable to discharge of indebtedness in title 11 cases, insolvency, or a qualified farm indebtedness. Code section 1081(b) allows corporations to exclude from gross income amounts attributable to certain transfers of property. The data is used to verify adjustments to basis of property and reductions of tax attributes.
Respondents: Business or other for-profit, individuals and households, farms, Federal, state, local, and tribal governments.
Estimated Total Burden Hours: 7,171 hours.

OMB Number: 1545–0215.
Type of Review: Extension.
Title: Form 5712, Election to be treated as a possessions corporation under section 936; Form 5712–A, election and verification of the cost sharing or profit split method under section 936(h)(5).
Form: Forms 5712 and 5712–A.
Description: Domestic corporations may elect to be treated as possessions corporations of Form 5712. This election allows the corporations to take a tax credit. Possession corporations may elect on Form 5712–A to share their taxable income with their affiliates under Internal Revenue Code section 936(h)(5). These forms are used by the IRS to ascertain if corporations are entitled to the credit and if they may share their taxable income with their affiliates.
Respondents: Business or other for-profit, farms, Federal, state, local, and tribal governments.
Estimated Total Burden Hours: 7,037 hours.

OMB Number: 1545–2001.
Type of Review: Extension.
Title: Rev. Proc. 2006–16, Renewal Community Depreciation Provisions.
Description: This revenue procedure provides the time and manner for states to make retroactive allocations of commercial revitalization expenditure amounts to certain buildings placed in service in the expanded area of a renewal community pursuant to 1400E(g) of the Internal Revenue Code.
Respondents: Business or other for-profit, state, local, and tribal governments.
Estimated Total Burden Hours: 150 hours.

OMB Number: 1545–1674.
Type of Review: Extension.
Title: Revenue Procedure 2005–16 (Master and Prototype and Volume Submitter Plans).
Description: The master and prototype and volume submitter revenue procedure sets for the procedures for sponsors of master and prototype and volume submitter pension, profit-sharing and annuity plans to request an opinion letter or an advisory letter from the Internal Revenue Service that the form of a mater prototype plan or volume submitter plan meets the requirements of section 401(a) of the Internal Revenue Code.
Respondents: Business or other for-profit, individuals and households, not-for-profit institutions, farms, state, local and tribal governments.
Estimated Total Burden Hours: 1,058,850 hours.

OMB Number: 1545–2002.
Type of Review: Extension.
Title: Notice 2006–25, Qualifying Gasification Project Program.
Description: This notice establishes the qualifying project program under 48B of the Internal Revenue Code. The notice provides the time and manner for

a taxpayer to apply for an allocation of qualifying gasification project credits.

Respondents: Business or other for-profit.

Estimated Total Burden Hours: 1,700 hours.

Glenn P. Kirkland, (202) 622–3428, Internal Revenue Service, Room 6516, 1111 Constitution Avenue, NW., Washington, DC 20224.

OMB Reviewer: Alexander T. Hunt, (202) 395–7316, Office of Management and Budget, Room 10235, New Executive Office Building, Washington, DC 20503.

Robert Dahl,

Treasury PRA Clearance Officer.

[FR Doc. E6–11151 Filed 7–14–06; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Office of the Secretary

Notice of Call for Redemption: 14 Percent Treasury Bonds of 2006–11

Washington, DC

1. As of July 14. 2006, public notice is hereby given that all outstanding 14 percent Treasury Bonds of 2006–11 (CUSIP No. 912810 CY 2) dated November 16, 1981, due November 15, 2011, are hereby called for redemption at par on November 15, 2006, on which date interest on such bonds will cease.

2. Full information regarding the presentation and surrender of such bonds held in coupon and registered form for redemption under this call will be found in Department of the Treasury Circular No. 300 dated March 4, 1973, as amended (31 CFR Part 306), and from the Definitives Section of the Bureau of the Public Debt (telephone (304) 480–7537), and on the Bureau of the Public Debt's Web site *http://www.publicdebt.treas.gov.*

3. Redemption payments for such bonds held in book-entry form, whether on the books of the Federal Reserve Banks or in Treasury Direct accounts, will be made automatically on November 15, 2006.

Donald V. Hammond,

Fiscal Assistant Secretary.

[FR Doc. 06–6218 Filed 7–14–06; 8:45 am]

BILLING CODE 4810–40–M

DEPARTMENT OF THE TREASURY

Office of the Comptroller of the Currency

Agency Information Collection Activities: Proposed Information Collection; Comment Request

AGENCY: Office of the Comptroller of the Currency, Treasury.

ACTION: Notice and request for comment.

SUMMARY: The OCC, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on a continuing information collection, as required by the Paperwork Reduction Act of 1995. An agency may not conduct or sponsor, and a respondent is not required to respond to, an information collection unless it displays a currently valid OMB control number. The OCC is soliciting comment concerning its information collection titled, "Leasing—12 CFR Part 23."

DATES: Comments must be received by September 15, 2006.

ADDRESSES: Communications Division, Office of the Comptroller of the Currency, Public Information Room, Mailstop 1–5, Attention: 1557–0206, 250 E Street, SW., Washington, DC 20219. In addition, comments may be sent by fax to (202) 874–4448, or by electronic mail to *regs.comments@occ.treas.gov.* You can inspect and photocopy the comments at the OCC's Public Information Room, 250 E Street, SW., Washington, DC 20219. You can make an appointment to inspect the comments by calling (202) 874–5043.

Additionally, you should send a copy of your comments to OCC Desk Officer, 1557–0206, by mail to U.S. Office of Management and Budget, 725, 17th Street, NW., #10235, Washington, DC 20503, or by fax to (202) 395–6974.

FOR FURTHER INFORMATION CONTACT: You can request additional information or a copy of the collection from Mary Gottlieb, OCC Clearance Officer, or Camille Dickerson, (202) 874–5090, Legislative and Regulatory Activities Division, Office of the Comptroller of the Currency, 250 E Street, SW., Washington, DC 20219.

SUPPLEMENTARY INFORMATION: The OCC is proposing to extend OMB approval of the following information collection:

Title: Leasing (12 CFR Part 23).

OMB Number: 1557–0206.

Description: This submission covers an existing regulation and involves no change to the regulation or to the information collection requirements. The OCC requests only that OMB extend the expiration date.

Information Collection Requirements Found in 12 CFR Part 23

12 CFR 23.4(c)—National banks must liquidate or re-lease personal property that is no longer subject to lease (off-lease property) within five years from the lease expiration. If a bank wishes to extend the five-year holding period for up to an additional five years, it must obtain OCC approval. Permitting a bank to extend the holding period confers a benefit on national banks and may result in cost savings. It also provides flexibility for a bank that experiences unusual or unforeseen conditions under which it would be imprudent to dispose of the off-lease property. Section 23.4(c) requires a bank to provide a clearly convincing demonstration as to why an additional holding period is necessary. In addition, a bank must value off-lease property at the lower of current fair market value or book value promptly after the property comes off-lease. These requirements enable the OCC to ensure that a bank is not holding the property for speculative reasons and that the value of the property is recorded in accordance with generally accepted accounting procedures (GAAP).

Section 23.5—Twelve U.S.C. 24 contains two separate provisions authorizing a national bank to acquire personal property for purposes of lease financing. Twelve U.S.C. 24 (Seventh) applies if the lease serves as the functional equivalent of a loan. Such leases are subject to the lending limits prescribed by 12 U.S.C. 84 or, if the lessee is an affiliate of the bank, to the restrictions on transactions with affiliates prescribed by 12 U.S.C. 371c and 371c–1. A national bank may also acquire personal property for purposes of lease financing under the authority of 12 U.S.C. 24 (Tenth) (CEBA Leases). This provision authorizes a national bank to invest in CEBA Leases up to 10 percent of its assets. Section 23.5 requires that if a bank enters into both types of leases, its records must distinguish between the two types of leases. This information is required to evidence compliance with the statutory limitation on the aggregate amount a national bank may invest in CEBA Leases.

Type of Review: Extension of a currently approved collection.

Affected Public: Individuals; Businesses or other for-profit.

Estimated Number of Respondents: 370.

Estimated Total Annual Responses: 370.

Frequency of Response: On occasion.

Estimated Total Annual Burden: 685.

Comments submitted in response to this notice will be summarized, included in the request for OMB approval, and become a matter of public record. Comments are invited on:

(a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information has practical utility;

(b) The accuracy of the agency's estimate of the burden of the collection of information;

(c) Ways to enhance the quality, utility, and clarity of the information to be collected;

(d) Ways to minimize the burden of the collection on respondents, including through the use of automated collection techniques or other forms of information technology; and

(e) Estimates of capital or startup costs and costs of operation, maintenance, and purchase of services to provide information.

Dated: July 11, 2006.

Stuart Feldstein,

Assistant Director, Legislative and Regulatory Activities Division.

[FR Doc. E6–11156 Filed 7–14–06; 8:45 am]

BILLING CODE 4810–33–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

[REG–246250–96]

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–246250–96 (TD 8818), Public Disclosure of Material Relating to Tax-Exempt Organizations (§§ 301.6104(d)–3, 301–6104(d)–4, and 301.6104(d)–5).

DATES: Written comments should be received on or before September 15, 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 regulation 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: Public Disclosure of Material Relating to Tax-Exempt Organizations.

OMB Number: 1545–1560.

Regulation Project Numbers: REG–246250–96.

Abstract: Under section 6104(e) of the Internal Revenue Code, certain tax-exempt organizations are required to make their annual information returns and applications to tax exemption available for public inspection. In addition, certain tax-exempt organizations are required to comply with requests made in writing or in person from individuals who seek a copy of those documents or, in the alternative, to make their documents widely available. This regulation provides guidance concerning these disclosure requirements.

Current Actions: There is no change to this existing regulation.

Type of Review: Extension of a currently approved collection.

Affected Public: Not-for-profit institutions.

Estimated Number of Respondents: 1,100,000.

Estimated Time Per Respondent: 30 minutes.

Estimated Total Annual Burden Hours: 551,000.

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 no 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: July 11, 2006.

Glenn P. Kirkland,

IRS Reports Clearance Officer.

[FR Doc. E6–11294 Filed 7–14–06; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Forms 1099–PATR

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 1099–PATR, Taxable Distributions Received From Cooperatives.

DATES: Written comments should be received on or before September 15, 2006 to be assured of consideration.

ADDRESSES: Direct all written comments to Glenn Kirkland, Internal Revenue Service, room 6516, 1111 Constitution Avenue NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form and instructions should be directed to 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: Taxable Distributions Received From Cooperatives.

OMB Number: 1545–0118.

Form Number: 1099–PATR.

Abstract: Form 1099–PATR is used to report patronage dividends paid by cooperatives in accordance with Internal Revenue Code section 6044. The information is used by IRS to verify reporting compliance on the part of the recipient. 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: Business or other for profit organizations.

Estimated Number of Responses: 1,961,131.

Estimated Time per Response: 15 min.

Estimated Total Annual Burden Hours: 509,895.

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: July 11, 2006

Glenn Kirkland,

IRS Reports Clearance Officer.

[FR Doc. E6–11295 Filed 7–14–06; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Form 1000

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 1000, Ownership Certificate.

DATES: Written comments should be received on or before September 15, 2006 to be assured of consideration.

ADDRESSES: Direct all written comments to Glenn Kirkland, Internal Revenue Service, room 6516, 1111 Constitution Avenue, NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form and instructions should be directed to Allan Hopkins, at (202) 622–6665, or at Internal Revenue Service, room 6516, 1111 Constitution Avenue, NW., Washington, DC 20224, or a through the Internet at *Allan.M.Hopkins@irs.gov*.

SUPPLEMENTARY INFORMATION:

Title: Ownership Certificate.

OMB Number: 1545–0054.

Form Number: 1000.

Abstract: Form 1000 is used by citizens, resident individuals, fiduciaries, and partnerships in connection with interest on bonds of a domestic, resident foreign, or nonresident foreign corporation containing a tax-free covenant and issued before January 1, 1934. IRS uses the information to verify that the correct amount of tax was withheld.

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: Business or other for-profit organizations and individuals or households.

Estimated Number of Responses: 1,500.

Estimated Time per Response: 3 hours, 23 minutes.

Estimated Total Annual Burden Hours: 5,040.

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: July 11, 2006.

Glenn Kirkland,

IRS Reports Clearance Officer.

[FR Doc. E6–11296 Filed 7–14–06; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Revenue Procedure 2003–48

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 Revenue Procedure 2003–48, Update of Checklist Questionnaire Regarding Requests for Spin-Off Rulings.

DATES: Written comments should be received on or before September 15, 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 revenue procedure 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: Update of Checklist Questionnaire Regarding Requests for Spin-Off Rulings.

OMB Number: 1545–1846.

Revenue Procedure Number: Revenue Procedure 2003–48.

Abstract: Revenue Procedure 2003–48 updates Revenue Procedure 96–30, which sets forth in a checklist questionnaire the information that must be included in a request for ruling under section 355. This revenue procedure updates information that taxpayers must provide in order to receive letter rulings under section 355. This information is required to determine whether a taxpayer would qualify for nonrecognition treatment.

Current Actions: There are no changes being made to the revenue procedure at this time.

Type of Review: Extension of a currently approved collection.

Affected Public: Business or other for-profit organizations. .

Estimated Number of Respondents: 180.

Estimated Time per Respondent: 200 hours.

Estimated Total Annual Burden Hours: 36,000.

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: July 11, 2006.

Glenn P. Kirkland,

IRS Reports Clearance Officer.

[FR Doc. E6–11297 Filed 7–14–06; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Forms 8871 and 8453–X

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 8871, Political Organization Notice of Section 527 Status; Form 8453–X, Political Organization Declaration for Electronic Filing of Notice of Section 527 Status.

DATES: Written comments should be received on or September 15, 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 forms 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: Form 8871, Political Organization Notice of Section 527 Status; Form 8453–X, Political Organization Declaration for Electronic Filing of Notice of Section 527 Status.

OMB Number: 1545–1693.

Form Numbers: 8871 and 8453–X.

Abstract: Public Law 106–230 as amended by Public Law 107–276, amended Internal Revenue Code section 527(i) to require certain political organizations to provide information to the IRS regarding their name and address, their purpose, and the names and addresses of their officers, highly compensated employees, Board of Directors, and related entities within the meaning of section 168(h)(4)). Forms 8871 and 8453–X are used to report this information to the IRS.

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: Not-for-profit institutions.

Estimated Number of Respondents: 55,000.

Estimated Time per Respondent: 41 minutes.

Estimated Total Annual Burden Hours: 35,195.

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: July 11, 2006.

Glenn P. Kirkland,

IRS Reports Clearance Officer.

[FR Doc. E6–11298 Filed 7–14–06; 8:45 am]

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Federal Register

Monday,
July 17, 2006

Part II

Department of the Interior

Fish and Wildlife Service

50 CFR Part 17

Endangered and Threatened Wildlife and Plants; Designation of Critical Habitat for the Peck's Cave Amphipod, Comal Springs Dryopid Beetle, and Comal Springs Riffle Beetle; Proposed Rule

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

RIN 1018–AU75

Endangered and Threatened Wildlife and Plants; Designation of Critical Habitat for the Peck's Cave Amphipod, Comal Springs Dryopid Beetle, and Comal Springs Riffle Beetle

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed rule.

SUMMARY: We, the U.S. Fish and Wildlife Service (Service), propose to designate areas of occupied, spring-related aquatic habitat in Texas as critical habitat for the Peck's cave amphipod (*Stygobromus peckí*), Comal Springs dryopid beetle (*Stygoparnus comalensis*), and Comal Springs riffle beetle (*Heterelmis comalensis*) under the Endangered Species Act of 1973, as amended (Act). The three listed species are known only from four spring systems in central Texas: Comal Springs and Hueco Springs in Comal County, and Fern Bank Springs and San Marcos Springs in Hays County. The total area proposed as critical habitat for the amphipod is about 38.5 ac (acres) (15.6 hectares (ha)), for the dryopid beetle is about 39.5 ac (16.0 ha), and for the riffle beetle is approximately 30.3 ac (12.3 ha).

DATES: We will accept comments from all interested parties until September 15, 2006. We must receive requests for public hearings in writing at the address shown in the **ADDRESSES** section by August 31, 2006.

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

1. You may submit written comments and information by mail or hand-delivery to Robert T. Pine, Supervisor, U.S. Fish and Wildlife Service, Austin Ecological Services Office, 10711 Burnet Road, Suite 200, Austin, Texas 78758.

2. You may send your comments by electronic mail (e-mail) to *FW2CSICHComments@fws.gov*. Please see the Public Comments Solicited section below for file format and other information about electronic filing.

3. You may fax your comments to 512/490–0974.

4. You may submit comments via the Federal eRulemaking Portal: *http://www.regulations.gov*. Follow the instructions for submitting comments.

Comments and materials received, as well as supporting documentation used in the preparation of this proposed rule, will be available for public inspection, by appointment, during normal business hours at the Austin Ecological Services Office at the above address.

FOR FURTHER INFORMATION CONTACT: Robert T. Pine, Supervisor, Austin Ecological Services Office (telephone 512/490–0057; facsimile 512/490–0974).

SUPPLEMENTARY INFORMATION:

Public Comments Solicited

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

(1) The reasons any habitat should or should not be determined to be critical habitat as provided by section 4 of the Act (16 U.S.C. 1531 *et seq.*), including whether it is prudent to designate critical habitat;

(2) Specific information on the distribution and abundance of Peck's cave amphipod, Comal Springs dryopid beetle, or Comal Springs riffle beetle and their habitats. Are there additional areas occupied at the time of listing that should be included in the designations and why? Are there areas that are not occupied but which are essential to the conservation of the species?;

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

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

(5) Whether our approach to designating critical habitat could be improved or modified in any way to provide for greater public participation and understanding, or to assist us in accommodating public concerns and comments;

(6) Are there data supporting the need for subsurface vegetation (*e.g.*, roots that can penetrate into the aquifer) for sheltering, breeding, or feeding habitat for any or all of the listed invertebrates? If so, does the 50-foot (ft) distance appropriately define the lateral extent of critical habitat to provide for the PCEs related to the surface vegetation that produces the subsurface vegetation (*e.g.*, roots)?;

(7) Whether populations of Comal Springs riffle beetles may exist elsewhere in Spring Lake such as spring outlets;

(8) Whether there are data supporting the premise that any or all of the beetles are detritivores (detritus-feeding animals) in spring-influenced riparian zones;

(9) Whether there are any data documenting the need of subsurface areas for breeding, feeding, or sheltering, or documenting the presence of any or all of the beetles in the subsurface areas; and

(10) Whether the benefit of exclusion of any particular area outweighs the benefits of inclusion under section 4(b)(2) of the Act.

If you wish to comment, you may submit your comments and materials concerning this proposal by any one of several methods (see **ADDRESSES** section above). Please submit e-mail comments to *FW2CSICHComments@fws.gov* in ASCII file format and avoid the use of special characters or any form of encryption. Please include "Attn: Comal Springs invertebrates" in your e-mail subject header and your name and return address in the body of your message. If you do not receive a confirmation from the system that we have received your e-mail message, please contact us directly by calling our Austin Ecological Services Office at 512/490–0057. Please note that the e-mail address, *FW2CSICHComments@fws.gov*, will be closed at the termination of the public comment period.

Our practice is to make comments, including names and home addresses of respondents, available for public review during regular business hours. We will not consider anonymous comments, and we will make all comments available for public inspection in their entirety. Comments and materials received will be available for public inspection, by appointment, during normal business hours at the above address.

Role of Critical Habitat in Actual Practice of Administering and Implementing the Act

Attention to, and protection of, habitat can be essential to successful conservation actions. The role that designation of critical habitat plays in protecting habitat of listed species, however, is often misunderstood. As discussed in more detail below in the discussion of exclusions under section 4(b)(2) of the Act, there are significant limitations on the regulatory effect of designation under section 7(a)(2) of the Act. In brief, (1) designation provides additional protection to habitat only where there is a Federal nexus; (2) the protection is relevant only when, in the absence of designation, destruction or adverse modification of the critical

habitat would in fact take place (in other words, other statutory or regulatory protections, policies, or other factors relevant to agency decision-making would not prevent the destruction or adverse modification); and (3) designation of critical habitat triggers the prohibition of destruction or adverse modification of that habitat, but it does not require specific actions to restore or improve habitat.

Currently, 475 species, or 36 percent, of the 1,311 listed species in the United States under the jurisdiction of the Service have designated critical habitat. We address the habitat needs of all 1,311 listed species through conservation mechanisms such as listing, section 7 consultations, the section 4 recovery planning process, the section 9 protective prohibitions of unauthorized take, section 6 funding to the States, the section 10 incidental take permit process, and cooperative, non-regulatory efforts with private landowners. The Service believes that these measures may make the difference between extinction and survival for many species.

In considering exclusions of areas proposed for designation, we evaluated the benefits of designation in light of *Gifford Pinchot Task Force* v. *U.S. Fish and Wildlife Service*, 378 F. 3d 1059 (9th Cir 2004) (hereinafter *Gifford Pinchot*). In that case, the Ninth Circuit invalidated the Service's regulation defining "destruction or adverse modification of critical habitat." In response, on December 9, 2004, the Director issued guidance to be considered in making section 7 adverse modification determinations. This proposed critical habitat designation does not use the invalidated regulation in our consideration of the benefits of including areas in this proposed designation. The Service will carefully manage future consultations that analyze impacts to designated critical habitat, particularly those that appear to be resulting in an adverse modification determination. Such consultations will be reviewed by the Regional Office prior to completion to ensure that an adequate analysis has been conducted that is informed by the Director's guidance.

On the other hand, to the extent that designation of critical habitat provides protection, that protection can come at significant social and economic cost. The mere administrative process of designation of critical habitat is expensive, time-consuming, and controversial. The current statutory framework of critical habitat, combined with past judicial interpretations of the statute, make critical habitat the subject of excessive litigation. As a result, critical habitat designations are driven by litigation and courts rather than biology, and are made at a time and under a time frame that limits our ability to obtain and evaluate the scientific and other information required to make the designation most meaningful.

In light of these circumstances, the Service believes that additional agency discretion would allow our focus to return to those actions that provide the greatest benefit to the species most in need of protection.

Procedural and Resource Difficulties in Designating Critical Habitat

We have been inundated with lawsuits for our failure to designate critical habitat, and we face a growing number of lawsuits challenging critical habitat determinations once they are made. These lawsuits have subjected the Service to an increasing series of court orders and court-approved settlement agreements that now consume nearly the entire listing program budget. This leaves the Service with little ability to prioritize its activities to direct scarce listing resources to the listing program actions with the most biologically urgent species conservation needs.

The consequence of the critical habitat litigation activity is that limited listing funds are used to defend active lawsuits, to respond to Notices of Intent (NOIs) to sue relative to critical habitat, and to comply with the growing number of adverse court orders. As a result, listing petition responses, the Service's own proposals to list critically imperiled species, and final listing determinations on existing proposals are all significantly delayed.

The accelerated schedules of court-ordered designations have left the Service with limited ability to provide for public participation or to ensure a defect-free rulemaking process before making decisions on listing and critical habitat proposals, due to the risks associated with noncompliance with judicially imposed deadlines. This, in turn, fosters a second round of litigation in which those who fear adverse impacts from critical habitat designations challenge those designations. The cycle of litigation appears endless and is very expensive, thus diverting resources from conservation actions that may provide relatively more benefit to imperiled species.

The costs resulting from the designation include legal costs, the cost of preparation and publication of the designation, the analysis of the economic effects and the cost of requesting and responding to public comment, and in some cases the costs of compliance with the National Environmental Policy Act (NEPA; 42 U.S.C. 4371 *et seq.*). These costs, which are not required for many other conservation actions, directly reduce the funds available for direct and tangible conservation actions.

Background

It is our intent to discuss only those topics directly relevant to the designation of critical habitat in this proposed rule. For more information on these species, refer to the final rule listing the Peck's cave amphipod, Comal Springs dryopid beetle, and Comal Springs riffle beetle that published in the **Federal Register** on December 18, 1997 (62 FR 66295).

All three of the listed species proposed for critical habitat designation are freshwater invertebrates. The Peck's cave amphipod is an eyeless, subterranean (below ground) arthropod that has been found in Comal Springs and Hueco Springs (also spelled Waco Springs). Both spring systems are located in Comal County, Texas. The Comal Springs dryopid beetle is a subterranean insect with vestigial (poorly developed, non-functional) eyes. The species has been found in two spring systems (Comal Springs and Fern Bank Springs) that are located in Comal and Hays counties, respectively. The Comal Springs riffle beetle is an aquatic insect that is primarily restricted to surface water associated with Comal Springs in Comal County and with San Marcos Springs in Hays County.

The four spring systems (Comal, Fern Bank, Hueco, and San Marcos) proposed as critical habitat units are produced by discharge of aquifer spring water along the Balcones fault zone at the edge of the Edwards Plateau in central Texas. The source of water flows for Comal Springs and San Marcos Springs is the San Antonio segment of the Edwards aquifer. This aquifer is characterized by highly varied, below ground spaces that have been hollowed out within limestone bedrock through dissolution by rainwater. Groundwater is held and conveyed within these hollowed-out spaces, which range in size from honeycomb-like pores to large caverns. The San Antonio segment of the aquifer occurs in a crescent-shaped section over a distance of 176 mi (miles) (283 kilometers (km)) from the town of Brackettville in Kinney County on the segment's west side over to the town of Kyle in Hays County at the segment's northeast side. Groundwater generally moves from recharge areas in the southwest part of the San Antonio

segment and travels toward discharge areas in the northeast part of the segment, which includes Comal Springs and San Marcos Springs. The area that recharges groundwater coming to Comal Springs may occur as much as 62 mi (100 km) away from the springs (Brune 1981, p. 130). Hueco Springs is recharged locally from the local watershed basin and possibly by the San Antonio segment of the Edwards aquifer (Guyton and Associates 1979, p. 2). The source of water for Fern Bank Springs has not been determined. Fern Bank Springs discharges water from the upper member of the Glen Rose Formation, and its flow could originate primarily from that unit; however, water discharged from the springs could also be (1) drainage from the nearby Edwards aquifer recharge zone, (2) water lost from the Blanco River, or (3) a combination of all three sources (Veni 2006, p. 1).

Comal Springs and San Marcos Springs are the two largest spring systems in Texas with respective mean annual flows of 284 and 170 cubic feet per second (8 and 5 cubic meters per second) (Fahlquist and Slattery 1997, p. 1; Slattery and Fahlquist 1997, p. 1). Both spring systems emerge as a series of spring outlets along the Balcones fault that follows the edge of the Edwards Plateau in Texas. Fern Bank Springs and Hueco Springs have considerably smaller flows and consist of one main spring with several satellite springs or seep areas.

The four spring systems proposed for critical habitat are characterized by high water quality and relatively constant water flows with temperatures that range from 68 to 75 °F (Fahrenheit) (20 to 24 °C (Celsius)). Due to the underlying limestone aquifer, discharged water from these springs has a carbonate chemistry (Ogden *et al.* 1986, p. 103). Although flows from San Marcos Springs can vary according to fluctuations in the source aquifer, records indicate that this spring system has never ceased flowing. San Marcos Springs has been monitored since 1894, and has exhibited the greatest flow dependability of any major spring system in central Texas (Puente 1976, p. 27). Comal Springs has a flow record nearly comparable to that of San Marcos Springs; however, Comal Springs ceased flowing from June 13 to November 3, 1956, during a severe drought (U.S. Army Corps of Engineers 1965, p. 59). Water pumping from the aquifer contributed to cessation of flow at Comal Springs during the drought period (U.S. Army Corps of Engineers 1965, p. 59). Hueco Springs has gone dry a number of times in the past during drought periods (Puente 1976, p. 27; Guyton and Associates 1979, p. 46). Although flow records are unavailable for Fern Bank Springs, the spring system is considered to be perennial (Barr 1993, p. 39).

Each of the four spring systems typically provides adequate resources to sustain life cycle functions for resident populations of the Peck's cave amphipod, Comal Springs dryopid beetle, or Comal Springs riffle beetle. However, a primary threat to the three invertebrate species is the potential failure of spring flow due to drought or excessive groundwater pumping, which could result in loss of aquatic habitat for the species. Although these invertebrate species persisted at Comal Springs in the 1950s despite drought conditions, all three species are aquatic and require water to complete their individual life cycles.

Bowles *et al.* (2003, p. 379) pointed out that the mechanism by which the Comal Springs riffle beetle survived the drought and the extent to which its population was negatively impacted are uncertain. Bowles *et al.* (2003, p. 379) speculated that the riffle beetle may be able to retreat back into spring openings or burrow down to wet areas below the surface of the streambed.

Barr (1993, p. 55) found Comal Springs dryopid beetles in spring flows with low volume discharge as well as high volume discharge and suggested that presence of the species did not necessarily depend on a high spring flow. However, Barr (1993, p. 61) noted that effects on both subterranean species (dryopid beetle and amphipod) from extended loss of spring flow and low aquifer levels could not be predicted due to limited knowledge about their life cycles.

Previous Federal Actions

The final rule to list Peck's cave amphipod, Comal Springs dryopid beetle, and Comal Springs riffle beetle as endangered was published in the **Federal Register** on December 18, 1997 (62 FR 66295). Critical habitat was not designated at the time of listing due to the determination by the Service that designation for the three invertebrate species would not provide benefits to the species beyond listing and any evaluation of activities required under section 7 of the Act. There is no recovery plan for these species. The lack of designated critical habitat for these species was subsequently challenged by the Center for Biological Diversity in the U.S. District Court for the District of Columbia, and this proposed rule to designate critical habitat is part of a stipulated settlement agreement between the plaintiff and the Service (see *Center for Biological Diversity* v. *Gale Norton, Secretary of the Interior* Civil Action No. 03–2402 (JDB)).

Critical Habitat

Critical habitat is defined in section 3 of the Act as—(i) the specific areas within the geographical area occupied by a species, at the time it is listed in accordance with the Act, on which are found those physical or biological features (I) essential to the conservation of the species and (II) that may require special management considerations or protection; and (ii) specific areas outside the geographical area occupied by a species at the time it is listed, upon a determination that such areas are essential for the conservation of the species. Conservation, as defined under section 3 of the Act, means to use and the use of all methods and procedures that are necessary to bring any endangered species or threatened species to the point where the measures provided under the Act are no longer necessary. Such methods and procedures include, but are not limited to, all activities associated with scientific resources management such as research, census, law enforcement, habitat acquisition and maintenance, propagation, live trapping, and transplantation, and, in the extraordinary case where population pressures within a given ecosystem cannot be otherwise relieved, may include regulated taking.

Critical habitat receives protection under section 7 of the Act through the prohibition against destruction or adverse modification of critical habitat with regard to actions carried out, funded, or authorized by a Federal agency. Section 7 requires consultation on Federal actions that are likely to result in the destruction or adverse modification of critical habitat. The designation of critical habitat does not affect land ownership or establish a refuge, wilderness, reserve, preserve, or other conservation area. Such designation does not allow government or public access to private lands. Section 7 is a purely protective measure and does not require implementation of restoration, recovery, or enhancement measures.

To be included in a critical habitat designation, the habitat within the area occupied by the species must first have features that are essential to the conservation of the species. Critical habitat designations identify, to the extent known using the best scientific data available, habitat areas that provide essential life cycle needs of the species (i.e., areas on which are found the

primary constituent elements (PCEs), as defined at 50 CFR 424.12(b)).

Habitat occupied at the time of listing may be included in critical habitat only if the essential features thereon may require special management or protection. Thus, we do not include areas where existing management is sufficient to conserve the species. (As discussed below, such areas may also be excluded from critical habitat under section 4(b)(2) of the Act.) Accordingly, when the best available scientific data do not demonstrate that the conservation needs of the species require additional areas, we will not designate critical habitat in areas outside the geographical area occupied by the species at the time of listing. An area currently occupied by the species but not known to be occupied at the time of listing will likely, but not always, be essential to the conservation of the species and, therefore, will typically be included in the critical habitat designation.

The Service's Policy on Information Standards Under the Endangered Species Act, published in the **Federal Register** on July 1, 1994 (59 FR 34271), and Section 515 of the Treasury and General Government Appropriations Act for Fiscal Year 2001 (Pub. L. 106–554; H.R. 5658) and the associated Information Quality Guidelines issued by the Service, provide criteria, establish procedures, and provide guidance to ensure that decisions made by the Service represent the best scientific data available. They require Service biologists, to the extent consistent with the Act and with the use of the best scientific data available, to use primary and original sources of information as the basis for recommendations to designate critical habitat. When determining which areas are critical habitat, a primary source of information is generally the listing package for the species. Additional information sources include the scientific information contained in the recovery plan for the species, articles in peer-reviewed journals, conservation plans developed by States and counties, scientific status surveys and studies, biological assessments, or other unpublished materials and expert opinion or personal knowledge. All information is used in accordance with the provisions of Section 515 of the Treasury and General Government Appropriations Act for Fiscal Year 2001 (Pub. L. 106–554; H.R. 5658) and the associated Information Quality Guidelines issued by the Service.

Section 4 of the Act requires that we designate critical habitat on the basis of the best scientific data available. Habitat is often dynamic, and species may move from one area to another over time. Furthermore, we recognize that designation of critical habitat may not include all of the habitat areas that may eventually be determined to be necessary for the recovery of the species. For these reasons, critical habitat designations do not signal that habitat outside the designation is unimportant or may not be required for recovery.

Areas that support populations, but are outside the critical habitat designation, will continue to be subject to conservation actions implemented under section 7(a)(1) of the Act and to the regulatory protections afforded by the section 7(a)(2) jeopardy standard, as determined on the basis of the best available information at the time of the action. Federally funded or permitted projects affecting listed species outside their designated critical habitat areas may still result in jeopardy findings in some cases. Critical habitat designations made on the basis of the best available information at the time of designation will not control the direction and substance of future recovery plans, habitat conservation plans, or other species conservation planning efforts if new information available to these planning efforts calls for a different outcome.

Methods

As required by section 4(b)(2) of the Act, we use the best scientific data available in determining areas that contain the features that are essential to the conservation of the Peck's cave amphipod, Comal Springs dryopid beetle, and Comal Springs riffle beetle. We do not propose to designate any areas outside the geographical areas presently occupied by these species.

We reviewed available information that pertains to the presence and habitat requirements of these three invertebrate species such as research published in peer-reviewed articles, data in reports submitted during section 7 consultations, contracted surveys, agency reports and databases, and aerial photographs. Information that has been reviewed includes, but is not limited to, Holsinger (1967), Bosse *et al.* (1988), Barr and Spangler (1992), Arsuffi (1993), Barr (1993), Bio-West (2001, 2002a, 2002b, 2003, 2004), Bowles *et al.* (2003), Fries *et al.* (2004), and Krejca (2005). As part of the process, we also reviewed the overall approach to conservation of these species undertaken by local, State, and Federal agencies, and private and non-governmental organizations operating within the species' range since their listing in 1997.

Primary Constituent Elements

In accordance with section 3(5)(A)(i) of the Act and regulations at 50 CFR 424.12, in determining which areas to propose as critical habitat, we considered the geographical areas occupied by these species at the time they were listed, on which are found those physical and biological features (known as primary constituent elements or PCEs) that are essential to the conservation of the species and that may require special management considerations or protection. These features include, but are not limited to, the following:

(1) Space for individual and population growth, and for normal behavior;

(2) Food, water, air, light, minerals, or other nutritional or physiological requirements;

(3) Cover or shelter;

(4) Sites for breeding, reproduction, and rearing (or development) of offspring; and

(5) Habitats that are protected from disturbance or are representative of the historic geographical and ecological distributions of a species.

Primary Constituent Elements for the Peck's Cave Amphipod, Comal Springs Dryopid Beetle, and Comal Springs Riffle Beetle

During our determination of PCEs to be proposed for critical habitat of these listed invertebrates, we have reviewed a number of studies relevant to habitat needs of the Peck's cave amphipod, Comal Springs dryopid beetle, and Comal Springs riffle beetle. The specific PCEs required for the three listed invertebrates are derived from the biological needs of the species as described in the "Background" section of this proposal and in the December 18, 1997, final rule listing these species (62 FR 66295). The proposed critical habitat constitutes our best assessment of areas that (1) are within the geographical range occupied by at least one of the three invertebrate species, (2) were occupied at the time of listing or have subsequently been discovered to be occupied, (3) are considered to contain features essential to the conservation of these species, and (4) that may require special management for conservation of these species. Based on our current knowledge of the life history, biology, and ecology of the species, and the habitat requirements for sustaining the essential life history functions of the species, we have determined that the Peck's cave amphipod; Comal Springs dryopid beetle, and Comal Springs riffle beetle require the PCEs described below.

The PCEs apply to all three species unless otherwise noted.

PCE 1. High-quality water with pollutant levels of soaps, detergents, heavy metals, pesticides, fertilizer nutrients, petroleum hydrocarbons, and semi-volatile compounds such as industrial cleaning agents no greater than those documented to currently exist (Brown 1987, p. 261) and including:

(a) Low salinity with total dissolved solids that generally range from about 307 to 368 milligrams per liter (mg/L); and

(b) Low turbidity that generally is less than 5 nephelometric (measurement of turbidity in a water sample by passing light through the sample and measuring the amount of the light that is deflected) turbidity units (NTUs).

These spring-adapted aquatic species live in high quality unpolluted groundwater and spring outflows that have low levels of salinity and turbidity. High-quality discharge water from springs and adjacent subterranean areas also help sustain habitat components, such as riparian vegetation that are essential to the Peck's cave amphipod, Comal Springs dryopid beetle, and Comal Springs riffle beetle. The two beetle species are thought to require water with adequate levels of dissolved oxygen for respiration (Brown 1987, p. 260; Arsuffi 1993, p. 18). Amphipods generally require relatively high concentrations of oxygen and may serve as an indicator of good water quality (Arsuffi 1993, p. 15). While definitive studies on the limits of tolerance and preference for these aquatic invertebrates have not been completed, they are exclusively found in aquatic habitats with constant temperature, low salinity, low turbidity, and extremely low levels of pollutants. In particular, respiration in the riffle beetle may be inhibited by pollutants such as soaps and detergents that can affect its respiratory mechanism (Brown 1987, p. 261). The dryopid beetle may also be affected by these particular pollutants since this species shares a similar respiratory structure (Arsuffi 1993, p. 18). However, biological tolerances for this species are not understood due to its existence within a subterranean habitat.

Based on available literature, we propose that the PCE for high water quality in proposed critical habitat for these species should have an approximate range of salinity of about 307 to 368 mg/L and a turbidity of less than 5 NTUs. Fahlquist and Slattery (1997, p. 3) reported a low salinity (as measured by total dissolved solids) as low as 307 mg/L at Comal Springs, and Slattery and Fahlquist (1997, p. 4) found that San Marcos Springs had a low salinity of 328 mg/L. The two springs also have a low turbidity of less than 5 NTUs (Fahlquist and Slattery 1997, p. 3; Slattery and Fahlquist 1997, p. 4). Brune (1975, p. 94) reported a salinity for Hueco Springs of 322 mg/L. The highest salinity (as determined by analysis of total dissolved solids) that we have found associated with any of these invertebrates was 368 mg/L, which was reported from Fern Bank Springs on April 28, 2005 (Texas Water Development Board 2006, p. 1).

PCE 2. Aquifer water temperatures that range approximately from 68 to 75 °F (20 to 24 °C).

The three listed invertebrate species complete their life cycle functions within a relatively narrow temperature range; water temperatures outside of this range could be harmful to these invertebrates. The temperature of spring water emerging from the Edwards aquifer at Comal Springs and San Marcos Springs ordinarily occurs within a narrow range of approximately 72 to 75 °F (22 to 24 °C) (Fahlquist and Slattery 1997, pp. 3–4; Groeger et al. 1997, pp. 282–283). Hueco Springs and Fern Bank Springs have temperature records of 68 to 71 °F (20 to 22 °C) (George 1952, p. 52; Brune 1975, p. 94; Texas Water Development Board 2006, p. 1).

PCE 3. A hydrologic regime that provides adequate levels of dissolved oxygen in the approximate range of 4.0 to 10.0 mg/L for respiration of the Comal Springs riffle beetle and Comal Springs dryopid beetle.

Respiration in most beetle species belonging to the family Elmidae (which includes the Comal Springs riffle beetle) typically requires flowing waters highly saturated with dissolved oxygen (Brown 1987, p. 260). As a consequence, riffle beetles are most commonly associated with flowing water that has shallow riffles (small waves) or rapids (Brown 1987, p. 253). Riffle beetles are restricted to waters with high dissolved oxygen due to their reliance on a plastron (a thin sheet of air) that is held next to the underside of the body surface by a mass of minute, hydrophobic (tending to repel and not absorb water) hairs. The plastron functions as a gill by allowing oxygen to diffuse passively from water into the plastron and replace oxygen absorbed during respiration (Brown 1987, p. 260). Beetle species in the Elmidae family are generally limited to well-aerated water environments since gaseous exchange with a plastron can actually be reversed in oxygen-depleted waters (Brown 1987, p. 260; Ward 1992, p. 130). The Comal Springs dryopid beetle also relies on a plastron for respiration, and this beetle species may also be affected by changes in oxygen levels caused by habitat modification (Arsuffi 1993, pp. 17–18).

PCE 4. Food supply for the Peck's cave amphipod, Comal Springs dryopid beetle, and Comal Springs riffle beetle that includes, but is not limited to, detritus (decomposed materials), leaf litter, and decaying roots.

Although specific food requirements of the three invertebrate species are unknown, the Peck's cave amphipod and dryopid beetle are most commonly found in areas where plant roots are inundated or otherwise influenced by aquifer water. Potential food sources for all three species in these areas include detritus (decomposed materials), leaf litter, and decaying roots; however, it is possible that these species feed on bacteria and fungi associated with decaying plant material. Both beetle species may be detritivores (detritus-feeding animals) that consume detrital materials in spring-influenced riparian zones (Gibson 2005, p. 1). The best information available indicates the Peck's cave amphipod is an omnivore (a species capable of consuming both animals and plants), which would enable the amphipod to exist as a scavenger or predator inside the aquifer in addition to using detritus in areas near spring outlets where plant roots interface with spring water (Gibson 2005, p. 1).

Trees and shrubs in riparian areas adjacent to the spring system may provide plant growth necessary to maintain food sources such as decaying material for these invertebrates. Roots from trees and shrubs in proximity to spring outlets are most likely to penetrate underground down to the water pools where these roots can serve as habitat for the amphipod and dryopid beetle. We believe relatively intact riparian areas with trees and shrubs may provide an important function within areas proposed for critical habitat of the two subterranean species. According to patterns of plant canopies as determined from aerial photographs, trees and shrubs (and their root systems) are generally within 50 feet (ft) (15.2 meters (m)) of the edge of water in these spring systems.

PCE 5. Bottom substrate in surface water habitat of the Comal Springs riffle beetle that is composed of sediment-free gravel and cobble ranging in size between 0.3 to 5.0 inches (in) (8–128 millimeters (mm)).

Although Comal Springs riffle beetles occur in conjunction with a variety of bottom substrates in surface water habitat, Bowles *et al.* (2003, p. 372) found that these beetles mainly occurred in areas with gravel and cobble

ranging between 0.3 to 5.0 in (8–128 mm) and did not occur in areas dominated by silt, sand, and small gravel. Collection efforts in areas of high sedimentation generally do not yield riffle beetles (Bowles *et al.* 2003, p. 376).

The purpose of this proposed designation is the conservation of PCEs necessary to support the life history functions of these three species. Because not all life history functions require all of the PCEs, not all of the proposed critical habitat may contain all the PCEs. Each of the areas proposed in this rule have been determined to contain sufficient PCEs to provide for one or more of the life history functions of the Peck's cave amphipod, Comal Springs dryopid beetle, or Comal Spring riffle beetle. In some cases, the PCEs may exist as a result of ongoing Federal actions. As a result, ongoing Federal actions at the time of designation will be included in the baseline in any consultation conducted subsequent to designation.

Criteria for Defining Critical Habitat

As required by section 4(b)(1)(A) of the Act, we use the best scientific data available in determining areas that contain the features that are essential to the conservation of the Peck's cave amphipod, Comal Springs dryopid beetle, and Comal Springs riffle beetle, as discussed in the Methods section above. The proposed critical habitat areas described below constitute our best assessment of areas that (1) are within the geographical range occupied by at least one of the three invertebrate species, (2) were occupied at the time of listing or have subsequently been discovered to be occupied, (3) are considered to contain features essential to the conservation of these species (as explained above in the section on PCEs), and (4) that may require special management for conservation of these species. We are proposing critical habitat designation where these four items overlap. This does not imply that unoccupied areas outside of the proposed critical habitat areas do not need special management in order to maintain the habitat and PCEs within the designation. Due to the nature of this aquatic system, habitat of listed species can be affected by activities such as water withdrawals, construction, etc., that take place outside of occupied habitat. Such activities can affect the quantity and quality of water flowing into the occupied habitat of these listed invertebrates.

Peck's cave amphipod—The Peck's cave amphipod has been found in Comal Springs and Hueco Springs, which are both located in Comal County. While limited data have been collected on the extent to which this subterranean species exists below ground away from outlets of spring systems, other species within the genus *Stygobromus* are known to be widely distributed in groundwaters and cave systems (Holsinger 1972, p. 65). Although this species could possibly range throughout the 4 mi (8 km) distance between the two habitat spring systems through the "honeycomb" pores and conduits of the Edwards aquifer, it is not known whether below ground connections between Comal Springs and Hueco Springs exist in the aquifer. Hueco Springs itself is fed by surface water from the Guadalupe River basin and may only have a secondary connection to the Edwards aquifer (Guyton and Associates 1979, p. 2). The only specific location information we have for this species regarding its distribution in the aquifer, aside from the spring openings, is an observation of Peck's cave amphipods at the bottom of a well (Panther Canyon well) that is located approximately 360 ft (110 m) away from the head outlet of Spring Run No. 1 (as designated in Barr and Spangler 1992, Fig. 1 on p. 42) in the Comal Springs complex (Krejca 2005, p. 83). We propose to designate critical habitat for the species in aquatic habitat of both Comal Springs and Hueco Springs. To include amphipod food sources in root/water interfaces around spring outlets, we also propose an area consisting of a 50 ft (15.2 m) distance from spring outlets of both Comal Springs and Hueco Springs (including several satellite springs that are located between the main outlet of Hueco Springs and the Guadalupe River). We believe that this 50 ft distance defines the lateral extent of critical habitat that contains PCEs necessary to provide for life functions of the Peck's cave amphipod with respect to roots that can penetrate into the aquifer. Based on the 50 ft (15.2 m) distance, the areas proposed for the amphipod critical habitat are about 38.1 ac (15.4 ha) at Comal Springs and 0.4 ac (0.2 ha) at Hueco Springs. The acreages were calculated with a computer-based Geographical Information System (GIS).

Comal Springs dryopid beetle—The Comal Springs dryopid beetle has been found in only two spring systems (Comal Springs and Fern Bank Springs) located in Comal and Hays counties, respectively. The subterranean species is primarily collected near spring outlets (Barr and Spangler 1992, p. 41). While the extent to which the dryopid beetle inhabits subterranean areas away from spring outlets is unknown, this species does not swim and may be limited to relatively short ranges within the aquifer. In addition, immature stages of the species are thought to be terrestrial and require access to spring outlets (Barr 1993, p. 56). Barr and Spangler (1992, p. 41) collected larvae of the dryopid beetle near spring outlets of Comal Springs and believed that the larvae were associated with ceilings of spring orifices. Extension of the dryopid beetle into the aquifer may also be limited by the lack of food materials associated with decaying plant roots that occur near spring orifices.

For critical habitat of the Comal Springs dryopid beetle, we propose aquatic habitat and a 50 ft (15.2 m) distance from spring outlets of Comal Springs and Fern Bank Springs. The 50 ft distance (15.2 m) is based on evaluations of aerial photographs showing tree and shrub canopies occurring in proximity to spring outlets at both spring systems. These plant canopies reflect approximate distances where plant root systems interface with water flows of the two spring systems. Based on the 50 ft (15.2 m) distance, the area proposed for dryopid beetle critical habitat at Comal Springs is about 38.1 ac (15.4 ha) and 1.4 ac (0.6 ha) at Fern Bank Springs. These acreages include areas believed to be occupied and that contain PCEs necessary to provide for life history functions of the Comal Springs dryopid beetle. The acreages were calculated with GIS.

Comal Springs riffle beetle—For the Comal Springs riffle beetle, habitat is primarily restricted to surface water in two impounded spring systems that are located within Comal and Hays counties in central Texas. In Comal County, the aquatic beetle species is found in various spring outlets of Comal Springs that occur within Landa Lake over a linear distance of about 0.9 mi (1.4 km). The species has also been found in outlets of San Marcos Springs in the upstream portion of Spring Lake in Hays County. However, populations of Comal Springs riffle beetles may exist elsewhere in Spring Lake since spring systems within the lake are interconnected and sampling to date for the species within the lake has been limited. Therefore, we propose designating an area that encompasses all of the spring outlets that are found within the same relatively small lake (excluding a slough (slack water) portion that lacks spring outlets). Apart from the slough portion, the approximate linear distance of Spring Lake at its greatest length is 0.2 mi (0.3 km). We propose about 19.8 ac (8.0 ha) of aquatic habitat in Landa Lake and

about 10.5 ac (4.3 ha) of aquatic habitat in Spring Lake to be designated for critical habitat. These areas contain PCEs necessary to provide for life-history functions of the Comal Springs riffle beetle. The acreages were estimated by calculating the cross-hatched polygon area in two map figures of these lakes using GIS.

When determining proposed critical habitat boundaries, we attempted to avoid including developed areas such as buildings, paved areas, and other structures that lack PCEs for the Peck's cave amphipod, Comal Springs dryopid beetle, and Comal Springs riffle beetle. However, the scale of the maps prepared under the parameters for publication within the Code of Federal Regulations may not reflect the exclusion of such developed areas. Any such structures and the surface under them are excluded by text in the proposed rule and are not proposed for designation as critical habitat. Where lakes are proposed, critical habitat does not include the lake bottom beyond 50 feet from the spring outlet. Therefore, Federal actions limited to these areas would not trigger section 7 consultation, unless they affect the species or PCEs of the critical habitat.

We are proposing to designate critical habitat in areas that we have determined were occupied at the time of listing, contain sufficient PCEs to support life-history functions essential for the conservation of the species, and require special management or protection. The proposed units of Comal Springs, Fern Bank Springs, Hueco Springs, and San Marcos Springs are proposed for designation based on all PCEs being present to support at least one life process for the Peck's cave amphipod, Comal Springs dryopid beetle, and/or Comal Springs riffle beetle.

Section 10(a)(1)(B) of the Act authorizes us to issue permits for the take of listed species incidental to otherwise lawful activities. An incidental take permit application must be supported by a habitat conservation plan (HCP) that identifies conservation measures that the permittee agrees to implement for the species to minimize and mitigate the impacts of the requested incidental take. We often exclude non-Federal public lands and private lands that are covered by an existing operative HCP and executed implementation agreement under section 10(a)(1)(B) of the Act from designated critical habitat because the benefits of exclusion outweigh the benefits of inclusion as discussed in section 4(b)(2) of the Act. There are no non-Federal lands or private lands covered under an HCP within the areas considered for critical habitat; therefore, none have been excluded.

Special Management Considerations or Protections

When designating critical habitat, we assess whether the areas determined to be occupied at the time of listing and containing the PCEs may require special management considerations or protections. As we undertake the process of designating critical habitat for a species, we first evaluate lands defined by those physical and biological features essential to the conservation of the species for inclusion in the designation under section 3(5)(A) of the Act. Secondly, we evaluate lands defined by those features to assess whether they may require special management considerations or protection.

Primary threats to the spring systems proposed for designation as critical habitat for the three invertebrate species that may require special management are summarized in Table 2 below. The threats for individual springs vary according to the degree of urbanization and availability of aquifer source water, but possible threats generally include prolonged cessation of spring flows (in 1956, Comal Springs at New Braunfels did not flow from mid-June to November (U.S. Army Corps of Engineers 1965)) as a result of the loss of hydrological connectivity within the aquifer (e.g., groundwater pumping, excavation, concrete filling), pollutants (e.g., stormwater drainage, pesticide use), and non-native species (e.g., biological control, sport fish stocking). To address the threats affecting these three invertebrate species, certain special management actions may be required, for example, maintenance of sustainable groundwater use and subsurface flows, use of adequate buffers, selection of appropriate pesticides, and implementation of integrated pest management plans.

Proposed Critical Habitat Designation

We are proposing four units as critical habitat for the Peck's cave amphipod, Comal Springs dryopid beetle, and Comal Springs riffle beetle. The critical habitat areas described below constitute our best assessment at this time of areas occupied at the time of listing that contain the PCEs and may require special management or protection for conservation of these species. The four spring systems proposed to be designated as critical habitat are (1) the Comal Springs Unit, (2) the Fern Bank Springs Unit, (3) the Hueco Springs Unit, and (4) the San Marcos Springs Unit. Table 1 below provides approximate areas (ac/ha) of these spring units that have been determined to meet the definition of critical habitat for the three listed invertebrates.

TABLE 1.—SPRING SYSTEM UNITS, DISTANCES FROM SPRING OUTLETS, AND ACREAGES OF AQUATIC HABITAT PROPOSED FOR CRITICAL HABITAT OF PECK'S CAVE AMPHIPOD, COMAL SPRINGS DRYOPID BEETLE, AND COMAL SPRINGS RIFFLE BEETLE IN COMAL AND HAYS COUNTIES, TEXAS

Species	Spring systems proposed for critical habitat areas	Distance from spring outlets for proposed critical habitat ft (m)	Proposed critical habitat acreage ac (ha)
Peck's cave amphipod	Comal Springs Unit	50 (15.2)	38.1 (15.4)
	Hueco Springs Unit	50 (15.2)	0.4 (0.2)
Comal Springs dryopid beetle	Comal Springs Unit	50 (15.2)	38.1 (15.4)
	Fern Bank Springs Unit	50 (15.2)	1.4 (0.6)
Comal Springs riffle beetle	Comal Springs Unit	Not applicable	19.8 (8.0)
	San Marcos Springs Unit	Not applicable	10.5 (4.3)

Table 2 below summarizes land ownership and threats for the four spring systems proposed for critical habitat. Land ownership for these spring systems involves only the State of Texas, municipalities, and private landowners and does not involve Federal or Tribal holdings. Comal Springs and San Marcos Springs are surrounded, respectively, by the cities of New Braunfels and San Marcos. Both Comal Springs and San Marcos Springs

have been impounded with dams to form Landa Lake and Spring Lake, respectively. Possible threats to these urban spring systems include, but are not limited to, water withdrawals, pesticide use, and stormwater runoff of pollutants that have accumulated on impervious cover (paved driveways, parking lots, sidewalks, etc.) in urban areas. A thorough threats discussion is found in the December 18, 1997, final rule listing these species (62 FR 66295).

TABLE 2.—OWNERSHIP AND THREATS TO SPRINGS OR LISTED SPECIES FOR PROPOSED CRITICAL HABITAT UNITS

Proposed critical habitat units	Ownership of proposed critical habitat by listed species ac (ha)	Threats to spring system or listed species
Comal Springs Unit, Comal County.	Peck's cave amphipod ..... State: 19.8 (8.0) ..... Municipal: 7.3 (3.0) ..... Private: 11.0 (4.5) ..... Comal Springs dryopid beetle. State: 19.8 (8.0) ..... Municipal: 7.3 (3.0) ..... Private: 11.0 (4.5). Comal Springs riffle beetle State: 19.8 (8.0).	Water withdrawals, hazardous materials spills, pesticide use, excavation/construction, stormwater pollutants, invasive species, and well entrainment.
Fern Bank Springs Unit, Hays County.	Comal Springs dryopid beetle. Private: 1.4 (0.6)	Water withdrawals, excavation/construction, and pesticide use.
Hueco Springs Unit, Comal County.	Peck's cave amphipod ..... Private: 0.4 (0.2)	Water withdrawals, hazardous materials spills, pesticide use, excavation/construction, stormwater pollutants, and well entrainment
San Marcos Springs Unit, Hays County..	Comal Springs riffle beetle State: 10.5 (4.3)	Water withdrawals, hazardous materials spills, pesticide use, excavation/construction, stormwater pollutants, and invasive species.

Fern Bank Springs and Hueco Springs occur in rural areas and are relatively unaffected by current urban activities in the vicinity of the springs. The satellite springs of Hueco Springs that lie between the main outlet and the Blanco River are located within a privately owned campground that has developed campsites occurring among these satellite springs. As compared to the other two spring systems, threats to Fern Bank Springs and Hueco Springs from surrounding land surface uses are currently minimal, as noted above in Table 2.

We present brief descriptions of all units and reasons why they meet the definition of critical habitat for Peck's cave amphipod, Comal Springs dryopid beetle, and Comal Springs riffle beetle below. Maps of the proposed critical habitat units are provided in the Proposed Regulation Promulgation section of this proposed rule.

Comal Springs Unit—Comal County, Texas

The Comal Springs system provides habitat for all three listed invertebrate species along with a federally listed fish, the endangered fountain darter (*Etheostoma fonticola*). No other critical habitat has been designated at this spring system. Comal Springs provides all of the PCEs necessary for conservation of the three invertebrate species. The spring system primarily occurs as a series of spring outlets that lie along the west shoreline of Landa Lake and within the lake itself. This nearly L-shaped lake is surrounded by the City of New Braunfels. Practically all of the spring outlets and spring runs associated with Comal Springs occur within the upper part of the lake above the confluence of Spring Run No. 1 with the lake. The land ownership of Comal Springs consists of private, municipal, and State holdings. The surface water and bottom of Landa Lake are State-owned. The City of New Braunfels owns approximately 40 percent of the land surface adjacent to the lake, and private landowners own approximately 60 percent. Approximate acreages of surface land ownership within the proposed critical habitat unit and threats to the unit are shown above in Table 2.

We propose to designate critical habitat for the three listed invertebrate species in the Comal Springs Unit as follows:

(1) Landa Lake—(Comal Springs riffle beetle only)—aquatic habitat within the lake and outlying spring runs that occur from the confluence of Blieders Creek at the top of Landa Lake down to the lake's lowermost point of confluence with Spring Run No. 1. The part of Landa Lake that lies below the confluence with Spring Run No. 1 down to the impounding dams at the bottom of the lake is not included.

(2) Aquatic habitat and shoreline areas of Landa Lake—(Peck's cave amphipod and Comal Springs dryopid beetle only)—aquatic habitat within the lake and outlying spring runs that occur from the confluence of Blieders Creek at the top of Landa Lake down to the lake's lowermost point of confluence with Spring Run No. 1. The part of Landa Lake that lies below the confluence with Spring Run No. 1 down to the impounding dams at the bottom of the lake is not included. Land areas along the shoreline of Landa Lake and on small islands inside the lake that are within a 50 ft (15.2 m) distance from habitat spring outlets are also included. The critical habitat proposed for the Peck's cave amphipod and Comal Springs dryopid beetle includes areas where PCEs exist for these two species and does not include areas where these features do not occur, such as buildings, lawns, or paved areas. Where lakes are proposed, critical habitat does not include the lake bottom where springs are absent.

Fern Bank Springs Unit—Hays County, Texas

The Fern Bank Springs system provides habitat for only the Comal Springs dryopid beetle. No other critical habitat has been proposed for designation at this spring system. Fern Bank Springs provides all of the PCEs necessary for conservation of this species. The spring system is located approximately 0.2 mi (0.4 km) east of the junction of Sycamore Creek with the Blanco River in Hays County. The spring system consists of a main outlet and a number of seep springs that occur at the base of a high bluff overlooking the Blanco River. This spring system is located entirely on land that is privately

owned. Approximate acreages of land ownership encompassed within the proposed critical habitat unit and threats to the unit are shown above in Table 2.

We propose to designate critical habitat for the Comal Springs dryopid beetle in the Fern Bank Springs Unit as follows:

(1) Fern Bank Springs—aquatic habitat and land areas that are within a 50 ft (15.2 m) distance from spring outlets including the main outlet of Fern Bank Springs and its associated seep springs. The critical habitat proposed for the Comal Springs dryopid beetle includes only areas where PCEs exist for this species and does not include areas where these features do not occur, such as buildings, lawns, or paved areas. Where lakes are proposed, critical habitat does not include the lake bottom where springs are absent.

Hueco Springs Unit—Comal County, Texas

The Hueco Springs system provides habitat for only the Peck's cave amphipod. No other critical habitat has been proposed for designation at this spring system. Hueco Springs provides all of the PCEs necessary for conservation of this species. The spring system has a main outlet that is located approximately 0.1 mi (0.2 km) south of the junction of Elm Creek with the Guadalupe River in Comal County. The main outlet itself lies approximately 500 ft (152 m) from the west bank of the Guadalupe River. Several satellite springs lie further south between the main outlet and the river. This spring system is located entirely on private land. The main outlet of Hueco Springs is located on undeveloped land, but the satellite springs occur within undeveloped areas of a privately owned campground. Approximate acreages of land ownership encompassed within the proposed critical habitat unit and threats to the unit are indicated above in Table 2.

We propose to designate critical habitat for the Peck's cave amphipod within the Hueco Springs Unit as follows:

(1) Hueco Springs—aquatic habitat and land areas that are within 50 ft (15.2 m) from habitat spring outlets including the main outlet of Hueco Springs and its associated satellite springs. The critical habitat proposed for the Peck's cave amphipod includes only aquatic habitat areas where PCEs exist for this species.

San Marcos Springs Unit—Hays County, Texas

The San Marcos Springs system provides habitat for the only Comal Springs riffle beetle. However, the San Marcos Springs system provides habitat for five other federally listed species: (1) The endangered fountain darter, (2) the endangered San Marcos gambusia (*Gambusia georgei*), (3) the threatened San Marcos salamander (*Eurycea nana*), (4) the endangered Texas blind salamander (*Eurycea* (formerly *Typhlomolge) rathbuni*), and (5) the endangered Texas wild-rice (*Zizania texana*). However, the San Marcos gambusia has not been found in surveys during recent years and is presumed to be extinct (Edwards 1999, p. 3). Critical habitat has been designated for the fountain darter, San Marcos gambusia, San Marcos salamander, and Texas wild-rice within Spring Lake and portions of the San Marcos River that lie downstream from Spring Lake. The San Marcos Springs unit provides all of the PCEs necessary for conservation of the Comal Springs riffle beetle. The spring system primarily occurs as a series of spring outlets that lie at the bottom of Spring Lake and along its shoreline. The lake is surrounded by the City of San Marcos in Hays County. The spring outlets associated with San Marcos Springs occur within the main part of the lake excluding the slough portion that exists as an arm of the lake. The land ownership involving San Marcos Springs consists entirely of State holdings. The surface water and bottom of Spring Lake are State-owned; the State-affiliated Texas State University owns the adjacent land surface. Approximate acreages of surface land ownership in the proposed critical habitat unit and threats to the unit are shown above in Table 2.

We propose to designate critical habitat for the Comal Springs riffle beetle in the San Marcos Springs unit as: Spring Lake—aquatic habitat areas within the lake upstream of Spring Lake dam with the exception of the slough portion of the lake upstream of its confluence with the main body.

Effects of Critical Habitat Designation

Section 7 Consultation

Section 7 of the Act requires Federal agencies, including the Service, to ensure that actions they fund, authorize, or carry out are not likely to destroy or adversely modify critical habitat. In our regulations at 50 CFR 402.02, we define destruction or adverse modification as "a direct or indirect alteration that appreciably diminishes the value of critical habitat for both the survival and recovery of a listed species. Such alterations include, but are not limited to, alterations adversely modifying any of those physical or biological features that were the basis for determining the habitat to be critical." However, recent decisions by the 5th and 9th Circuit Courts of Appeal have invalidated this definition (see *Gifford Pinchot* and *Sierra Club* v. *U.S. Fish and Wildlife Service et al.*, 245 F.3d 434, 442F (5th Cir 2001)). Pursuant to current national policy and the statutory provisions of the Act, destruction or adverse modification is determined on the basis of whether, with implementation of the proposed Federal action, the affected critical habitat would remain functional (or retain the current ability for the PCEs to be functionally established) to serve the intended conservation role for the species.

Section 7(a) of the Act requires Federal agencies, including the Service, to evaluate their actions with respect to any species that is proposed or listed as endangered or threatened and with respect to its critical habitat, if any is proposed or designated. Regulations implementing this interagency cooperation provision of the Act are codified at 50 CFR part 402.

Section 7(a)(4) of the Act requires Federal agencies to confer with us on any action that is likely to jeopardize the continued existence of a proposed species or result in destruction or adverse modification of proposed critical habitat. This is a procedural requirement only. However, once proposed species becomes listed, or proposed critical habitat is designated as final, the full prohibitions of section 7(a)(2) apply to any Federal action. The primary utility of the conference procedures is to maximize the opportunity for a Federal agency to adequately consider proposed species and critical habitat and avoid potential delays in implementing their proposed action as a result of the section 7(a)(2) compliance process, should those species be listed or the critical habitat designated.

Under conference procedures, the Service may provide advisory conservation recommendations to assist the agency in eliminating conflicts that may be caused by the proposed action. The Service may conduct either informal or formal conferences. Informal conferences are typically used if the proposed action is not likely to have any adverse effects to the proposed species or proposed critical habitat. Formal conferences are typically used when the Federal agency or the Service believes the proposed action is likely to cause adverse effects to proposed species or critical habitat, inclusive of those that may cause jeopardy or adverse modification.

The results of an informal conference are typically transmitted in a conference report; the results of a formal conference are typically transmitted in a conference opinion. Conference opinions on proposed critical habitat are typically prepared according to 50 CFR 402.14, as if the proposed critical habitat were designated. We may adopt the conference opinion as the biological opinion when the critical habitat is designated, if no substantial new information or changes in the action alter the content of the opinion (see 50 CFR 402.10(d)). As noted above, any conservation recommendations in a conference report or opinion are strictly advisory.

If a species is listed or critical habitat is designated, section 7(a)(2) of the Act requires Federal agencies to ensure that activities they authorize, fund, or carry out are not likely to jeopardize the continued existence of such a species or to destroy or adversely modify its critical habitat. If a Federal action may affect a listed species or its critical habitat, the responsible Federal agency (action agency) must enter into consultation with us. As a result of this consultation, compliance with the requirements of section 7(a)(2) will be documented through the Service's issuance of (1) a concurrence letter for Federal actions that may affect, but are not likely to adversely affect, listed species or critical habitat; or (2) a biological opinion for Federal actions that may affect, but are likely to adversely affect, listed species or critical habitat.

When we issue a biological opinion concluding that a project is likely to result in jeopardy to a listed species or the destruction or adverse modification of critical habitat, we also provide reasonable and prudent alternatives to the project, if any are identifiable. "Reasonable and prudent alternatives" are defined at 50 CFR 402.02 as alternative actions identified during consultation that can be implemented in a manner consistent with the intended purpose of the action, that are consistent with the scope of the Federal agency's legal authority and jurisdiction, that are economically and technologically feasible, and that the Director believes would avoid jeopardy to the listed species or destruction or adverse modification of critical habitat. Reasonable and prudent alternatives can vary from slight project modifications to extensive redesign or relocation of the project. Costs associated with implementing a reasonable and prudent alternative are similarly variable.

Regulations at 50 CFR 402.16 require Federal agencies to reinitiate consultation on previously reviewed actions in instances where a new species is listed or critical habitat is subsequently designated that may be affected and the Federal agency has retained discretionary involvement or control over the action or such discretionary involvement or control is authorized by law. Consequently, some Federal agencies may request reinitiation of consultation with us on actions for which formal consultation has been completed, if those actions may affect subsequently listed species or designated critical habitat or adversely modify or destroy proposed critical habitat.

Federal activities that may affect the Peck's cave amphipod, Comal Springs dryopid beetle, or Comal Springs riffle beetle or their designated critical habitat will require section 7 consultation under the Act. Activities on State, tribal, local, or private lands requiring a Federal permit (such as a permit from the U.S. Army Corps of Engineers under section 404 of the Clean Water Act or a permit under section 10(a)(1)(B) of the Act from the Service) or involving some other Federal action (funding from the Federal Highway Administration, Federal Aviation Administration, or Federal Emergency Management Agency) will also be subject to the section 7 consultation process. Federal actions requiring section 7 consultation also include pumping of Edwards aquifer water by Federal agencies, such as the Department of Defense or Service. Federal actions not affecting listed species or critical habitat, and actions on State, tribal, local, or private lands that are not federally funded, authorized, or permitted, do not require section 7 consultations.

Application of the Jeopardy and Adverse Modification Standards for Actions Involving Effects to the Peck's Cave Amphipod, Comal Springs Dryopid Beetle, and Comal Springs Riffle Beetle and Their Critical Habitat

Jeopardy Standard

Prior to designation of critical habitat, the Service has applied an analytical framework for jeopardy analyses of Peck's cave amphipod, Comal Springs dryopid beetle, and Comal Springs riffle beetle that relies heavily on the importance of core area populations to the survival and recovery of these species. The section 7(a)(2) analysis is focused not only on these populations but also on the habitat conditions necessary to support them.

The jeopardy analysis usually expresses the survival and recovery needs of the Peck's cave amphipod, Comal Springs dryopid beetle, and Comal Springs riffle beetle in a qualitative fashion without making distinctions between what is necessary for survival and what is necessary for recovery. Generally, if a proposed Federal action is incompatible with the viability of the affected core area population(s), inclusive of associated habitat conditions, a jeopardy finding is considered to be warranted, because of the relationship of each core area population to the survival and recovery of the species as a whole.

Adverse Modification Standard

The analytical framework described in the Director's December 9, 2004, memorandum would be used to complete section 7(a)(2) analyses for Federal actions affecting critical habitat for the Peck's cave amphipod, Comal Springs dryopid beetle, and Comal Springs riffle beetle. The key factor related to the adverse modification determination is whether, with implementation of the proposed Federal action, the affected critical habitat would remain functional (or retain the current ability for the PCEs to be functionally established) to serve the intended conservation role for the species. Generally, the conservation role of critical habitat units for the Peck's cave amphipod, Comal Springs dryopid beetle, and Comal Springs riffle beetle is to have each unit support viable populations.

Section 4(b)(8) of the Act requires us to briefly evaluate and describe in any proposed or final regulation that designates critical habitat those activities involving a Federal action that may destroy or adversely modify such habitat, or that may be affected by such designation. Activities that may destroy or adversely modify critical habitat may also jeopardize the continued existence of the species.

Activities that may destroy or adversely modify critical habitat are those that alter the PCEs to an extent that the conservation value of critical habitat for Peck's cave amphipod, Comal Springs dryopid beetle, and Comal Springs riffle beetle is appreciably reduced. Activities that, when carried out, funded, or authorized by a Federal agency, may affect critical habitat and therefore result in consultation for these listed species include, but are not limited to:

(1) Actions that can negatively affect the PCEs of the Peck's cave amphipod, Comal Springs dryopid beetle, or Comal Springs riffle beetle;

(2) Activities that would significantly and detrimentally alter the water quality in any of the spring systems listed above

and would thereby destroy or adversely modify the critical habitat for any of theses species. These activities include, but are not limited to, sedimentation from construction or release of chemical or biological pollutants into the surface water or connected groundwater at a point source or by dispersed release (non-point source); such activities could also alter water conditions to a point that negatively affects these invertebrate species;

(3) Actions that change the existing and historic flow regimes and would thereby significantly and detrimentally alter the PCEs necessary for conservation of these species. Such activities could include, but are not limited to, water withdrawal, impoundment, and water diversions. These activities could eliminate or reduce the habitat necessary for the growth, reproduction, or survival of these invertebrate species; and

(4) Actions that remove hydraulic connectivity of the aquifer and the spring areas where it exists and would thereby negatively affect the PCEs of the proposed critical habitat of these species and the population dynamics of the species. Alteration of subsurface water flows through destruction of geologic features (for example, excavation) or creation of impediments to flow (for example, concrete filling), especially in proximity to spring outlets, could negatively alter the hydraulic connectivity necessary to sustain these species. It is necessary for subsurface habitat to remain intact with sufficient hydraulic connectivity of flow paths and conduits to ensure that PCEs (water quality, water quantity, and food supply) for the proposed critical habitat remain adequate for all three listed invertebrates.

Due in large part to the nature of the aquifer and spring systems, ongoing human activities that occur outside the proposed critical habitat are unlikely to threaten the physical and biological features of the proposed critical habitat. However, future activities outside of the critical habitat may affect PCEs. Federal activities outside of critical habitat (such as groundwater pumping, pollution, etc.) are subject to review under section 7 of the Act if they may affect these species or adversely affect their critical habitat.

We consider all of the units proposed as critical habitat to contain features essential to the conservation of the Peck's cave amphipod, Comal Springs dryopid beetle, or Comal Springs riffle beetle. All units are within the geographic range of the species, all were occupied by the species at the time of listing (based on observations made within the last 9 years), and are likely to be used by these listed invertebrates. Federal agencies already consult with us on activities in areas currently occupied by these listed invertebrates, or if the species may be affected by the action, to ensure that their actions do not jeopardize the continued existence of the Peck's cave amphipod, Comal Springs dryopid beetle, or Comal Springs riffle beetle.

Exclusions Under Section 4(b)(2) of the Act

Section 4(b)(2) of the Act states that critical habitat shall be designated, and revised, on the basis of the best available scientific data after taking into consideration the economic impact, national security impact, and any other relevant impact of specifying any particular area as critical habitat. The Secretary of the Interior may exclude an area from critical habitat if (s)he determines that the benefits of exclusion outweigh the benefits of specifying such area as part of the critical habitat, unless (s)he determines, based on the best scientific data available, that the failure to designate such area as critical habitat will result in the extinction of the species. In making that determination, the Secretary is afforded broad discretion and the Congressional record is clear that in making a determination under this section, the Secretary has discretion as to which factors and how much weight will be given to any factor.

The Service is conducting an economic analysis of the impacts of the proposed critical habitat designation and related factors, which will be available for public review and comment. Based on public comment on that document, the proposed designation itself, and the information in the final economic analysis, one or more areas may be excluded from critical habitat by the Secretary under the provisions of section 4(b)(2) of the Act. This is provided for in the Act, and in our implementing regulations at 50 CFR 424.19.

Pursuant to section 4(b)(2) of the Act, we must consider relevant impacts in addition to economic ones. The lands within the proposed designation of critical habitat for Peck's cave amphipod, Comal Springs dryopid beetle, and Comal Springs riffle beetle are not owned or managed by the Department of Defense; there are currently no HCPs for these listed species; and the proposed designation does not include any Tribal lands or trust resources. We anticipate no impact to national security, Tribal lands, partnerships, or HCPs from this proposed critical habitat designation. A number of programs exist at the State and local levels (e.g., Edwards Aquifer Authority and Texas Commission for Environmental Quality) to protect the Edwards aquifer and manage spring flows.

As a result of a ruling in a 1991 Court case (*Sierra Club* v. *Secretary of the Interior, No. MO–91–CA–069*), the Service identified minimum spring flows from Comal and San Marcos Springs likely to cause take and jeopardy for other listed aquatic species. The Edwards Aquifer Authority and other Edwards Aquifer water users are positively influencing water quantity and temperature that relate to PCEs. As a result of the Sierra Club lawsuit, the State legislature created the Edwards Aquifer Authority (EAA) through Senate Bill 1477 to regulate groundwater withdrawals. The EAA has issued withdrawal permits and created drought response plans that help protect the PCEs related to water quantity and temperature. The EAA has prepared a draft Habitat Conservation Plan to provide for water quantity in the aquifer and protect spring dependent species. When finalized, the plan is expected to help protect the aquifer. Other programs that provide some aquifer protection are Edwards Aquifer Rules and Phase I optional water quality measures of the Texas Commission on Environmental Quality (TCEQ). The Edwards Aquifer Rules provide protection for drinking water, and the Phase I measures provide protection for fountain darter, Texas wild-rice, San Marcos salamander, and San Marcos gambusia. The Edwards Aquifer Rules protect water quality by reducing pollutant loading through the implementation of best management practices that can help prevent degradation of groundwater. The Phase I optional water quality measures include enhanced best management practices that protect sensitive karst features. These measures also contain other protective actions that can be applied to many types of new projects. The Edward Aquifer Rules and Phase I optional measures provide protections for the three Comal Springs invertebrates. In addition, the Phase I optional measures are not mandated for every project.

Based on the best available information, we believe that all of these units contain the features essential to the species. As such, we have considered excluding, but have not proposed to exclude any lands from this proposed designation based on the potential impacts from these factors.

Economic Analysis

An analysis of the economic impacts of proposing critical habitat for the Peck's cave amphipod, Comal Springs dryopid beetle, and Comal Springs riffle beetle is being prepared. We will announce the availability of the draft economic analysis as soon as it is completed, at which time we will seek public review and comment. At that time, copies of the draft economic analysis will be available by contacting the Austin Ecological Services Office (see **ADDRESSES** section).

Peer Review

In accordance with our joint policy published in the **Federal Register** on July 1, 1994 (59 FR 34270), we will seek the expert opinions of at least three appropriate and independent specialists regarding this proposed rule (see **DATES** section). The purpose of such review is to ensure that our critical habitat designation is based on scientifically sound data, assumptions, and analyses. We will send copies of this proposed rule to these peer reviewers immediately following publication in the **Federal Register**. We will invite these peer reviewers to comment, during the public comment period, on the specific assumptions and conclusions regarding the proposed designation of critical habitat.

We will consider all comments and information received during the comment period on this proposed rule during preparation of a final rulemaking. Accordingly, the final decision may differ from this proposal.

Public Hearings

The Act provides for one or more public hearings on this proposal, if requested. Requests for public hearings must be made in writing at least 15 days prior to the close of the public comment period. We will schedule public hearings on this proposal, if any are requested, and announce the dates, times, and places of those hearings in the **Federal Register** and local newspapers at least 15 days prior to the first hearing.

Clarity of the Rule

Executive Order 12866 requires each agency to write regulations and notices that are easy to understand. We invite your comments on how to make this proposed rule easier to understand, including answers to questions such as the following: (1) Are the requirements in the proposed rule clearly stated? (2) Does the proposed rule contain technical jargon that interferes with the clarity? (3) Does the format of the proposed rule (grouping and order of the sections, use of headings, paragraphing, and so forth) aid or reduce its clarity? (4) Is the description of the notice in the **SUPPLEMENTARY INFORMATION** section of the preamble helpful in understanding the proposed rule? (5) What else could we do to make this proposed rule easier to understand?

Send a copy of any comments on how we could make this proposed rule easier to understand to: Office of Regulatory Affairs, Department of the Interior, Room 7229, 1849 C Street, NW., Washington, DC 20240. You may e-mail your comments to this address: *Exsec@ios.doi.gov*.

Required Determinations

Regulatory Planning and Review

In accordance with Executive Order 12866, this document is a significant rule in that it may raise novel legal and policy issues, but it is not anticipated to have an annual effect on the economy of $100 million or more or affect the economy in a material way. Due to the tight timeline for publication in the **Federal Register**, the Office of Management and Budget (OMB) has not formally reviewed this rule. We are preparing a draft economic analysis of this proposed action, which will be available for public comment, to determine the economic consequences of designating critical habitat. This economic analysis also will be used to determine compliance with Executive Order 12866, Regulatory Flexibility Act, Small Business Regulatory Enforcement Fairness Act, and Executive Order 12630.

The types of Federal actions or authorized activities that may destroy or adversely modify proposed critical habitat, or that may be affected by such designation are listed above in the "Effects of Critical Habitat Designation" section. The availability of the draft economic analysis will be announced in the **Federal Register** and in local newspapers so that it is available for public review and comment. The draft economic analysis can be obtained by contacting the Austin Ecological Services Office (see **ADDRESSES** section).

Regulatory Flexibility Act (5 U.S.C. 601 et seq.)

Under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*, as amended by the Small Business Regulatory Enforcement Fairness Act (SBREFA) of 1996), whenever an agency is required to publish a notice of rulemaking for any proposed or final rule, it must prepare and make available for public comment a regulatory flexibility analysis that describes the effects of the rule on small entities (i.e., small businesses, small organizations, and small government jurisdictions). However, no regulatory flexibility analysis is required if the head of the agency certifies the rule will not have a significant economic impact on a substantial number of small entities. The SBREFA amended the Regulatory Flexibility Act (RFA) to require Federal agencies to provide a statement of the factual basis for certifying that the rule will not have a significant economic impact on a substantial number of small entities.

At this time, the Service lacks the available economic information necessary to provide an adequate factual basis for the required RFA finding. Therefore, the RFA finding is deferred until completion of the draft economic analysis prepared pursuant to section 4(b)(2) of the Act and E.O. 12866. This draft economic analysis will provide the required factual basis for the RFA finding. Upon completion of the draft economic analysis, the Service will publish a notice of availability of the draft economic analysis of the proposed designation and reopen the public comment period on the proposed designation for an additional 60 days. The Service will include with the notice of availability, as appropriate, an initial regulatory flexibility analysis or a certification that the rule will not have a significant economic impact on a substantial number of small entities accompanied by the factual basis for that determination. The Service has concluded that deferring the RFA finding until completion of the draft economic analysis is necessary to meet the purposes and requirements of the RFA. Deferring the RFA finding in this manner will ensure that the Service makes a sufficiently informed determination based on adequate economic information and provides the necessary opportunity for public comment.

Executive Order 13211

On May 18, 2001, the President issued an Executive Order (E.O. 13211) on regulations that significantly affect energy supply, distribution, and use. Executive Order 13211 requires agencies to prepare Statements of Energy Effects when undertaking certain actions. This proposed rule to designate critical habitat for the Peck's cave amphipod, Comal Springs dryopid beetle, and Comal Springs riffle beetle is a significant rule under Executive Order 12866 in that it may raise novel legal or policy issues, but it is not expected to significantly affect energy supplies, distribution, or use since there are no pipelines, distribution facilities, power

grid stations, etc., within the boundaries of proposed critical habitat. Therefore, this action is not a significant energy action, and no Statement of Energy Effects is required. We will, however, further evaluate this issue as we conduct our economic analysis and review and revise this assessment as warranted.

Unfunded Mandates Reform Act (2 U.S.C. 1501 et seq.)

In accordance with the Unfunded Mandates Reform Act (2 U.S.C. 1501), the Service makes the following findings:

(a) This rule will not produce a Federal mandate. In general, a Federal mandate is a provision in legislation, statute, or regulation that would impose an enforceable duty upon State, local, tribal governments, or the private sector and includes both "Federal intergovernmental mandates" and "Federal private sector mandates." These terms are defined in 2 U.S.C. 658(5)–(7). "Federal intergovernmental mandate" includes a regulation that "would impose an enforceable duty upon State, local, or tribal governments" with two exceptions. It excludes "a condition of Federal assistance." It also excludes "a duty arising from participation in a voluntary Federal program," unless the regulation "relates to a then-existing Federal program under which $500,000,000 or more is provided annually to State, local, and tribal governments under entitlement authority," if the provision would "increase the stringency of conditions of assistance" or "place caps upon, or otherwise decrease, the Federal Government's responsibility to provide funding," and the State, local, or tribal governments "lack authority" to adjust accordingly. At the time of enactment, these entitlement programs were: Medicaid; AFDC work programs; Child Nutrition; Food Stamps; Social Services Block Grants; Vocational Rehabilitation State Grants; Foster Care, Adoption Assistance, and Independent Living; Family Support Welfare Services; and Child Support Enforcement. "Federal private sector mandate" includes a regulation that "would impose an enforceable duty upon the private sector, except (i) a condition of Federal assistance or (ii) a duty arising from participation in a voluntary Federal program."

The designation of critical habitat does not impose a legally binding duty on non-Federal government entities or private parties. Under the Act, the only regulatory effect is that Federal agencies must ensure that their actions do not destroy or adversely modify critical habitat under section 7. While non-Federal entities that receive Federal funding, assistance, or permits, or that otherwise require approval or authorization from a Federal agency for an action, may be indirectly impacted by the designation of critical habitat, the legally binding duty to avoid destruction or adverse modification of critical habitat rests squarely on the Federal agency. Furthermore, to the extent that non-Federal entities are indirectly impacted because they receive Federal assistance or participate in a voluntary Federal aid program, the Unfunded Mandates Reform Act would not apply; nor would critical habitat shift the costs of the large entitlement programs listed above on to State governments.

(b) Due to current public knowledge of these three species' protection, the prohibition against take of these three species both within and outside of the proposed critical habitat areas, and the fact that critical habitat provides no incremental restrictions, we do not anticipate that this rule will significantly or uniquely affect small governments. As such, a Small Government Agency Plan is not required. We will, however, further evaluate this issue as we conduct our economic analysis and revise this assessment if appropriate.

Takings

In accordance with Executive Order 12630 ("Government Actions and Interference with Constitutionally Protected Private Property Rights"), this rule is not anticipated to have significant takings implications. A takings implication assessment is not required. As discussed above, the designation of critical habitat affects only Federal actions. Although private parties that receive Federal funding, assistance, or require approval or authorization from a Federal agency for an action may be indirectly impacted by the designation of critical habitat, the legally binding duty to avoid destruction or adverse modification of critical habitat rests squarely on the Federal agency. Due to current public knowledge of these three species protections and the prohibition against take of these three species both within and outside of the proposed areas, we do not anticipate that property values will be affected by the critical habitat designation. However, we have not yet completed the economic analysis for this proposed rule. Once the economic analysis is available, we will review and revise this preliminary assessment as warranted.

Federalism

In accordance with Executive Order 13132, the rule does not have significant Federalism effects. A Federalism assessment is not required. In keeping with Department of the Interior and Department of Commerce policy, we requested information from, and coordinated development of, this proposed critical habitat designation with appropriate State resource agencies in Texas. The proposed designation of critical habitat in areas currently occupied by the Peck's cave amphipod, Comal Springs dryopid beetle, and Comal Springs riffle beetle imposes no additional restrictions to those currently in place and, therefore, has little incremental impact on State and local governments and their activities. The proposed designation may have some benefit to these governments in that the areas that contain the features essential to the conservation of the species are more clearly defined, and the PCEs necessary to the conservation of these three species are specifically identified. While making this definition and identification does not alter where and what federally sponsored activities may occur, it may assist these local governments in long-range planning (rather than waiting for case-by-case section 7 consultations to occur).

Civil Justice Reform

In accordance with Executive Order 12988, the Office of the Solicitor has determined that the rule does not unduly burden the judicial system and meets the requirements of sections 3(a) and 3(b)(2) of the Order. We propose designating critical habitat in accordance with the provisions of the Act. This proposed rule uses standard property descriptions and identifies the PCEs within the proposed designated areas to assist the public in understanding the habitat needs of the Peck's cave amphipod, Comal Springs dryopid beetle, and Comal Springs riffle beetle.

Paperwork Reduction Act of 1995 (44 U.S.C. 3501 et seq.)

This rule does not contain any new collections of information that require approval by OMB under the Paperwork Reduction Act. This rule will not impose recordkeeping or reporting requirements on State or local governments, individuals, businesses, or organizations. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number.

National Environmental Policy Act

It is our position that, outside the Tenth Circuit, we do not need to prepare environmental analyses as defined by the NEPA in connection with designating critical habitat under the Endangered Species Act of 1973, as amended. We published a notice outlining our reasons for this determination in the **Federal Register** on October 25, 1983 (48 FR 49244). This assertion was upheld in the courts of the Ninth Circuit (*Douglas County* v. *Babbitt*, 48 F.3d 1495 (9th Cir. Ore. 1995), cert. denied 116 S. Ct. 698 (1996)).

Government-to-Government Relationship With Tribes

In accordance with the President's memorandum of April 29, 1994, "Government-to-Government Relations with Native American Tribal Governments" (59 FR 22951), Executive Order 13175, and the Department of Interior's manual at 512 DM 2, we readily acknowledge our responsibility to communicate meaningfully with recognized Federal Tribes on a government-to-government basis. We have determined that there are no Tribal lands occupied at the time of listing that contain the features essential for the conservation of the Peck's cave amphipod, Comal Springs dryopid beetle, and Comal Springs riffle beetle. Therefore, critical habitat for these species has not been proposed for designation on Tribal lands.

References Cited

A complete list of all references cited in this rulemaking is available upon request from the Supervisor, Austin Ecological Services Office (see **ADDRESSES** section above).

Author(s)

The primary authors of this proposed rule are staff of the Ecological Services Office in Austin, Texas (see **ADDRESSES** section above).

List of Subjects in 50 CFR Part 17

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

Proposed Regulation Promulgation

Accordingly, we propose to amend part 17, subchapter B of chapter I, title 50 of the Code of Federal Regulations, as set forth below:

PART 17—[AMENDED]

1. The authority citation for part 17 continues to read as follows:

Authority: 16 U.S.C. 1361–1407; 16 U.S.C. 1531–1544; 16 U.S.C. 4201–4245; Pub. L. 99–625, 100 Stat. 3500; unless otherwise noted.

2. Amend § 17.11(h), the List of Endangered and Threatened Wildlife, as follows:

a. Under "INSECTS," revise the entries for "Beetle, Comal Springs dryopid" and "Beetle, Comal Springs riffle" to read as set forth below; and

b. Under "CRUSTACEANS," revise the entry for "Amphipod, Peck's cave" to read as set forth below.

§ 17.11 Endangered and threatened wildlife.

* * * * *

(h) * * *

Species		Historic range	Vertebrate population where endangered or threatened	Status	When listed	Critical habitat	Special rules
Common name	Scientific name						
* *	*	*	*		*		*
INSECTS							
Beetle, Comal Springs dryopid	*Stygoparnus comalensis.*	U.S.A.(TX)	NA	E	629	17.95(i)	NA
Beetle, Comal Springs riffle	*Heterelmis comalensis.*	U.S.A.(TX)	NA	E	629	17.95(i)	NA
CRUSTACEANS							
* *	*	*	*		*		*
Amphipod, Peck's cave	Stygobromus (=*Stygonectes*) pecki.	U.S.A.(TX)	NA	E	629	17.95(h)	NA
* *	*	*	*		*		*

3. Amend § 17.95 as follows:

a. In paragraph (h), add an entry for "Peck's cave amphipod (*Stygobromus pecki*)", in the same alphabetical order in which the species appears in the table at 50 CFR 17.11(h), to read as set forth below; and

b. In paragraph (i), add entries for "Comal Springs dryopid beetle (*Stygoparnus comalensis*)" and "Comal Springs riffle beetle (*Heterelmis comalensis*)", in the same alphabetical order in which these species appear in the table at 50 CFR 17.11(h), to read as set forth below.

§ 17.95 Critical habitat—fish and wildlife.

* * * * *

(h) *Crustaceans.*

* * * * *

Peck's cave amphipod (*Stygobromus pecki*)

(1) Critical habitat units are depicted for Comal County, Texas, on the maps below.

(2) The primary constituent elements of critical habitat for Peck's cave amphipod are the habitat components that provide:

(i) High-quality water with pollutant levels of soaps, detergents, heavy metals, pesticides, fertilizer nutrients, petroleum hydrocarbons, and semi-volatile compounds such as industrial cleaning agents no greater than those documented to currently exist and including:

(A) Low salinity with total dissolved solids that generally range from 307 to 368 mg/L; and

(B) Low turbidity that generally is less than 5 NTUs;

(C) Aquifer water temperatures that range from approximately 68 to 75 °F (20 to 24 °C); and

(ii) Food supply for the Peck's cave amphipod that includes, but is not limited to, detritus (decomposed materials), leaf litter, and decaying roots.

(3) Critical habitat does not include manmade structures (such as buildings, aqueducts, and roads) and the surface

on which they are located that exist on the effective date of this rule and do not contain one or more of the primary constituent elements. Where lakes are proposed, critical habitat does not include the lake bottom beyond 50 feet from the spring outlet.

(4) *Critical habitat map units.* Data layers defining map units were created by using ArcGIS. All coordinates are UTM zone 14 coordinate pairs, referenced to North American Horizontal Datum 1983. Coordinates were derived from 2004 digital orthophotographs. All acreage and mileage calculations were performed using GIS.

(5) **Note:** Index map (Map 1) follows:

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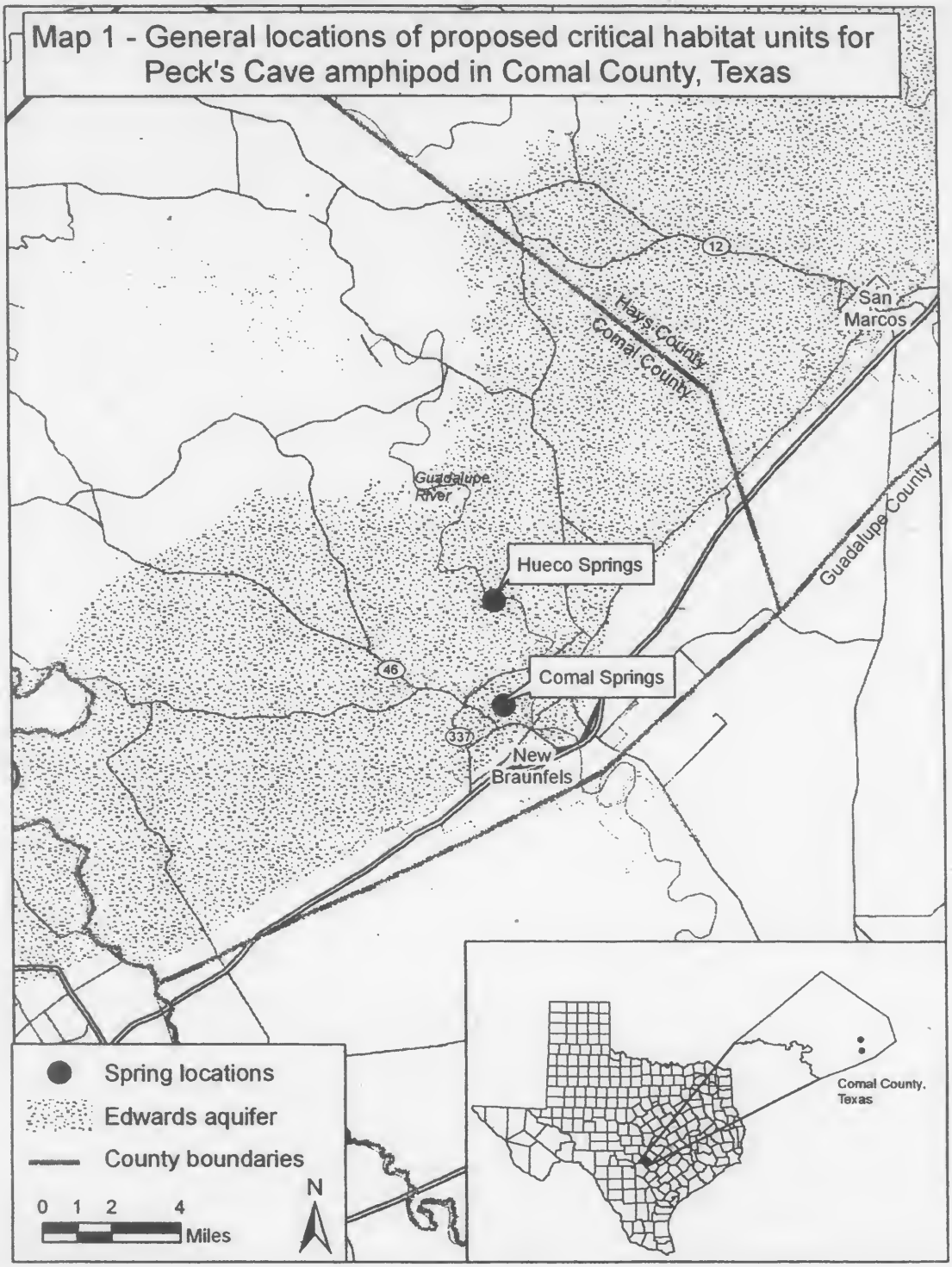
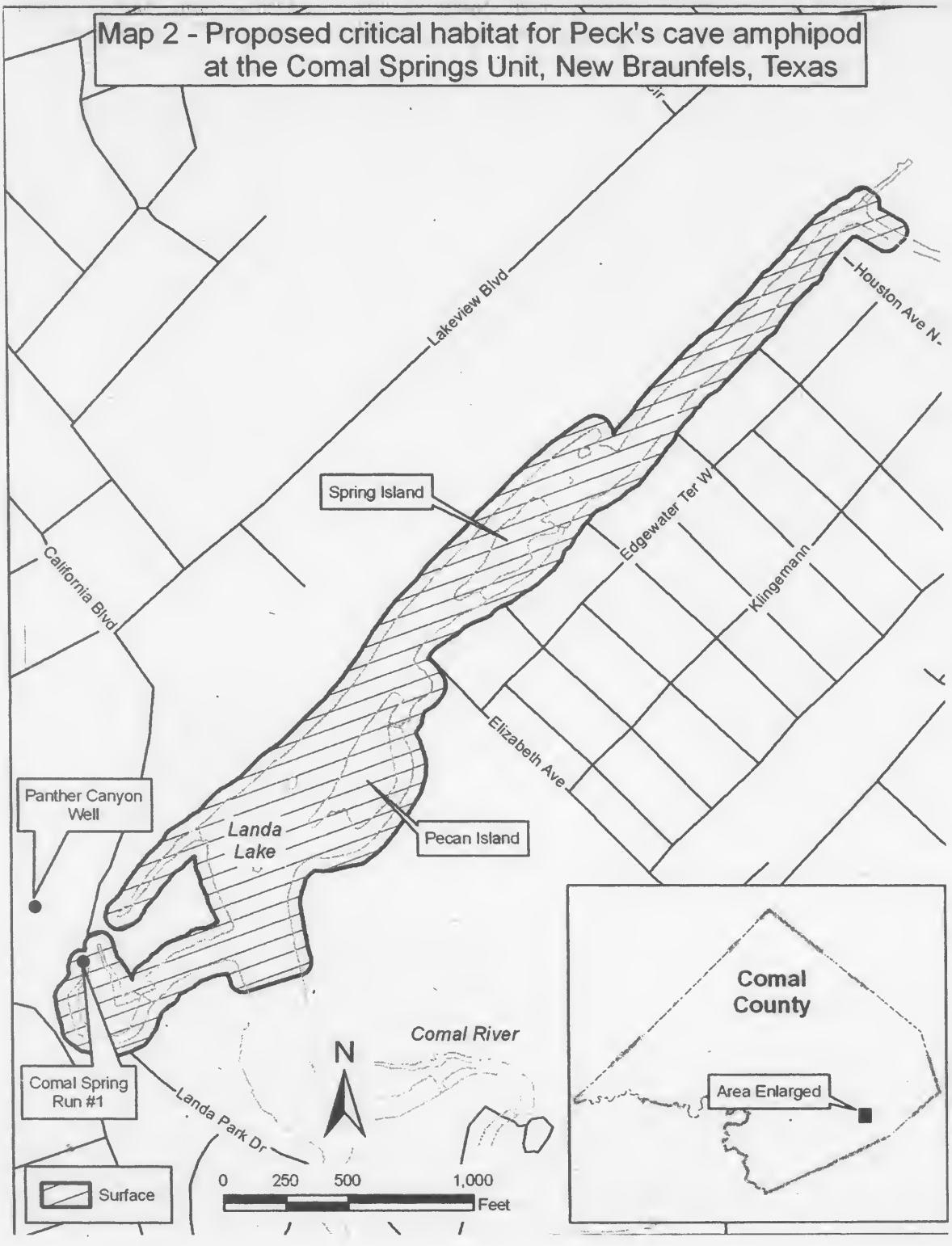


(6) Comal Springs Unit, Comal County, Texas.

(i) Aquatic habitat areas bounded by the UTM Zone 14 NAD 83 coordinates (meters E, meters N) : 583387, 3287251; 583392, 3287264; 583405, 3287280; 583404, 3287290; 583407, 3287301; 583414, 3287307; 583425, 3287308; 583425, 3287320; 583433, 3287328; 583444, 3287330; 583454, 3287325; 583463, 3287301; 583482, 3287272; 583486, 3287286; 583501, 3287296; 583520, 3287314; 583547, 3287326; 583557, 3287333; 583572, 3287335; 583586, 3287342; 583567, 3287387;

583560, 3287408; 583559, 3287423; 583534, 3287403; 583499, 3287359; 583491, 3287347; 583484, 3287340; 583471, 3287334; 583461, 3287334; 583452, 3287340; 583450, 3287350; 583454, 3287364; 583465, 3287374; 583494, 3287415; 583521, 3287443; 583526, 3287453; 583563, 3287477; 583589, 3287503; 583613, 3287519; 583643, 3287547; 583662, 3287561; 583719, 3287617; 583759, 3287669; 583780, 3287701; 583811, 3287743; 583833, 3287764; 583848, 3287784; 583892, 3287826; 583911, 3287850; 583970, 3287907; 584008, 3287938; 584047, 3287963; 584055, 3287964; 584065, 3287960; 584073, 3287948; 584074, 3287941; 584081, 3287952; 584131, 3288011; 584164, 3288044; 584183, 3288062; 584197, 3288071; 584216, 3288093; 584236, 3288110; 584258, 3288138; 584284, 3288161; 584325, 3288209; 584343, 3288223; 584364, 3288233; 584375, 3288243; 584386, 3288244; 584401, 3288234; 584403, 3288218; 584433, 3288201; 584437, 3288193; 584436, 3288184; 584416, 3288167; 584405, 3288167; 584375, 3288184; 584365, 3288180; 584344, 3288156; 584329, 3288131; 584320, 3288125; 584298, 3288103; 584273, 3288067; 584204, 3287997; 584187, 3287985; 584176, 3287973; 584152, 3287943; 584147, 3287933; 584105, 3287880; 584080, 3287862; 584049, 3287844; 584026, 3287815; 584021, 3287805; 584013, 3287798; 584009, 3287787; 583999, 3287775; 583971, 3287751; 583947, 3287735; 583927, 3287725; 583920, 3287718; 583890, 3287704; 583850, 3287673; 583845, 3287665; 583851, 3287662; 583860, 3287650; 583865, 3287640; 583865, 3287629; 583863, 3287622; 583854, 3287609; 583840, 3287600; 583836, 3287584; 583829, 3287576; 583838, 3287552; 583841, 3287535; 583841, 3287520; 583835, 3287501; 583804, 3287452; 583790, 3287435; 583766, 3287416; 583727, 3287406; 583706, 3287406; 583695, 3287398; 583686, 3287370; 583699, 3287298; 583698, 3287288; 583694, 3287282; 583617, 3287257; 583610, 3287258; 583605, 3287262; 583597, 3287280; 583584, 3287277; 583565, 3287270; 583541, 3287255; 583534, 3287244; 583518, 3287233; 583510, 3287211; 583496, 3287192; 583480, 3287183; 583459, 3287177; 583436, 3287178; 583419, 3287184; 583400, 3287198; 583396, 3287205; 583387, 3287251.

(ii) **Note:** Comal Springs Unit (Map 2) follows:



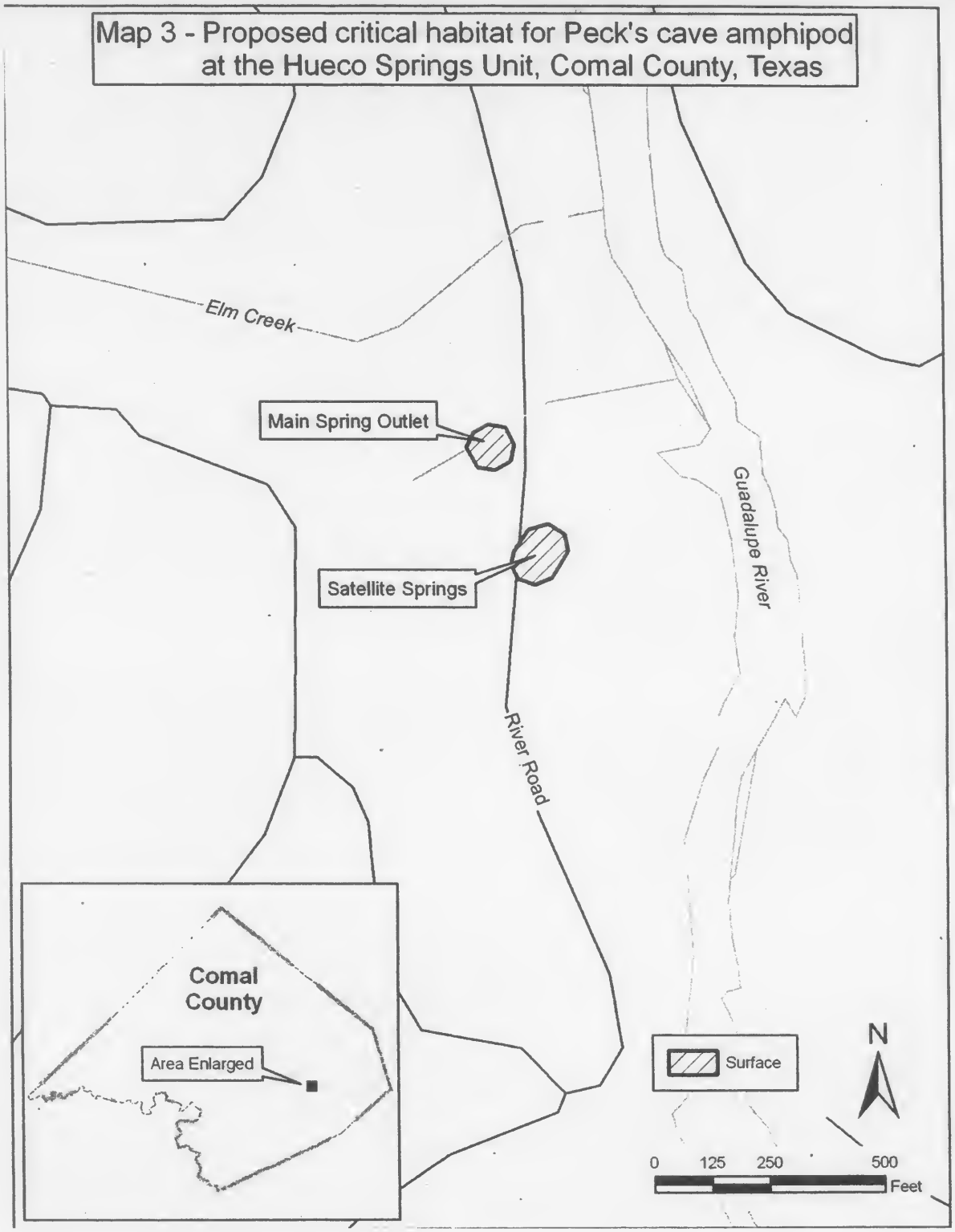
(7) Hueco Springs Unit, Comal County, Texas.

(i) Aquatic habitat areas bounded by the UTM Zone 14 NAD 83 coordinates (meters E, meters N) : 583113, 3292498; 583114, 3292498; 583115, 3292498;

583116, 3292498; 583117, 3292498; 583118, 3292497; 583119, 3292497; 583120, 3292497; 583120, 3292496; 583121, 3292496; 583122, 3292495; 583123, 3292495; 583124, 3292494; 583124, 3292493; 583125, 3292493; 583126, 3292492; 583126, 3292491; 583127, 3292490; 583127, 3292489; 583127, 3292489; 583128, 3292488; 583128, 3292487; 583128, 3292486; 583128, 3292485; 583128, 3292484; 583128, 3292483; 583128, 3292482; 583128, 3292481; 583128, 3292480; 583128, 3292479; 583128, 3292478; 583127, 3292477; 583127, 3292477; 583127, 3292476; 583126, 3292475; 583126, 3292474; 583125, 3292473; 583124, 3292473; 583124, 3292472; 583123, 3292471; 583122, 3292471; 583122, 3292470; 583121, 3292470; 583120, 3292469; 583119, 3292469; 583118, 3292468; 583117, 3292468; 583116, 3292468; 583115, 3292468; 583114, 3292468; 583113, 3292468; 583112, 3292468; 583111, 3292468; 583111, 3292468; 583110, 3292468; 583109, 3292468; 583108, 3292469; 583107, 3292469; 583106, 3292470; 583105, 3292470; 583104, 3292471; 583104, 3292471; 583103, 3292472; 583102, 3292472; 583102, 3292473; 583101, 3292474; 583100, 3292475; 583100, 3292475; 583100, 3292476; 583099, 3292477; 583099, 3292478; 583099, 3292479; 583098, 3292480; 583098, 3292481; 583098, 3292482; 583098, 3292483; 583098, 3292484; 583098, 3292485; 583098, 3292486; 583098, 3292487; 583099, 3292488; 583099, 3292488; 583099, 3292489; 583100, 3292490; 583100, 3292491; 583101, 3292492; 583101, 3292493; 583102, 3292493; 583103, 3292494; 583103, 3292495; 583104, 3292495; 583105, 3292496; 583106, 3292496; 583107, 3292497; 583108, 3292497; 583108, 3292497; 583109, 3292498; 583110, 3292498; 583111, 3292498; 583112, 3292498; 583113, 3292498.

(ii) Aquatic habitat areas bounded by the UTM Zone 14 NAD 83 coordinates (meters E, meters N): 583132, 3292420; 583133, 3292421; 583133, 3292421; 583133, 3292422; 583134, 3292423; 583134, 3292424; 583134, 3292425; 583135, 3292426; 583136, 3292426; 583136, 3292427; 583137, 3292428; 583138, 3292428; 583138, 3292429; 583139, 3292430; 583140, 3292430; 583141, 3292430; 583142, 3292431; 583143, 3292431; 583143, 3292431; 583144, 3292432; 583145, 3292432; 583146, 3292432; 583147, 3292432; 583148, 3292432; 583149, 3292432; 583150, 3292432; 583151, 3292432; 583152, 3292431; 583153, 3292431; 583154, 3292431; 583155, 3292430; 583155, 3292430; 583156, 3292429; 583157, 3292429; 583158, 3292428; 583158, 3292427; 583159, 3292427; 583160, 3292426; 583160, 3292425; 583161, 3292424; 583161, 3292423; 583162, 3292422; 583162, 3292422; 583162, 3292421; 583162, 3292420; 583163, 3292419; 583163, 3292419; 583163, 3292417; 583163, 3292416; 583163, 3292415; 583162, 3292414; 583162, 3292421; 583162, 3292412; 583162, 3292411; 583161, 3292410; 583161, 3292409; 583160, 3292409; 583160, 3292408; 583159, 3292407; 583159, 3292406; 583158, 3292406; 583157, 3292405; 583156, 3292404; 583156, 3292404; 583156, 3292403; 583155, 3292402; 583155, 3292402; 583155, 3292401; 583154, 3292400; 583154, 3292399; 583153, 3292398; 583152, 3292398; 583152, 3292397; 583151, 3292396; 583150, 3292396; 583149, 3292395; 583149, 3292395; 583148, 3292394; 583147, 3292394; 583146, 3292393; 583145, 3292393; 583144, 3292393; 583143, 3292393; 583142, 3292393; 583141, 3292393; 583140, 3292393; 583139, 3292393; 583138, 3292393; 583137, 3292393; 583137, 3292393; 583136, 3292394; 583135, 3292394; 583134, 3292395; 583133, 3292395; 583132, 3292396; 583132, 3292396; 583131, 3292397; 583130, 3292397; 583129, 3292398; 583129, 3292399; 583128, 3292400; 583128, 3292400; 583127, 3292401; 583127, 3292402; 583127, 3292403; 583126, 3292404; 583126, 3292405; 583126, 3292406; 583126, 3292407; 583126, 3292408; 583126, 3292409; 583126, 3292410; 583126, 3292411; 583126, 3292412; 583127, 3292413; 583127, 3292413; 583127, 3292414; 583128, 3292415; 583128, 3292416; 583129, 3292417; 583129, 3292418; 583130, 3292418; 583131, 3292419; 583131, 3292420; 583132, 3292420.

(iii) **Note:** Hueco Springs Unit (Map 3) follows:



* * * * *

(i) *Insects.*

* * * * *

Comal Springs dryopid beetle (*Stygoparnus comalensis*)	

(1) Critical habitat units are depicted for Comal and Hays counties, Texas, on the maps below.

(2) The primary constituent elements of critical habitat for the Comal Springs dryopid beetle are the habitat components that provide:

(i) High-quality water with pollutant levels of soaps, detergents, heavy metals, pesticides, fertilizer nutrients, petroleum hydrocarbons, and semi-volatile compounds such as industrial cleaning agents no greater than those documented to currently exist and including:

(A) Low salinity with total dissolved solids that generally range from 307 to 368 mg/L; and

(B) Low turbidity that generally is less than 5 NTUs;

(C) Aquifer water temperatures that range from approximately 68 to 75 °F (20 to 24 °C);

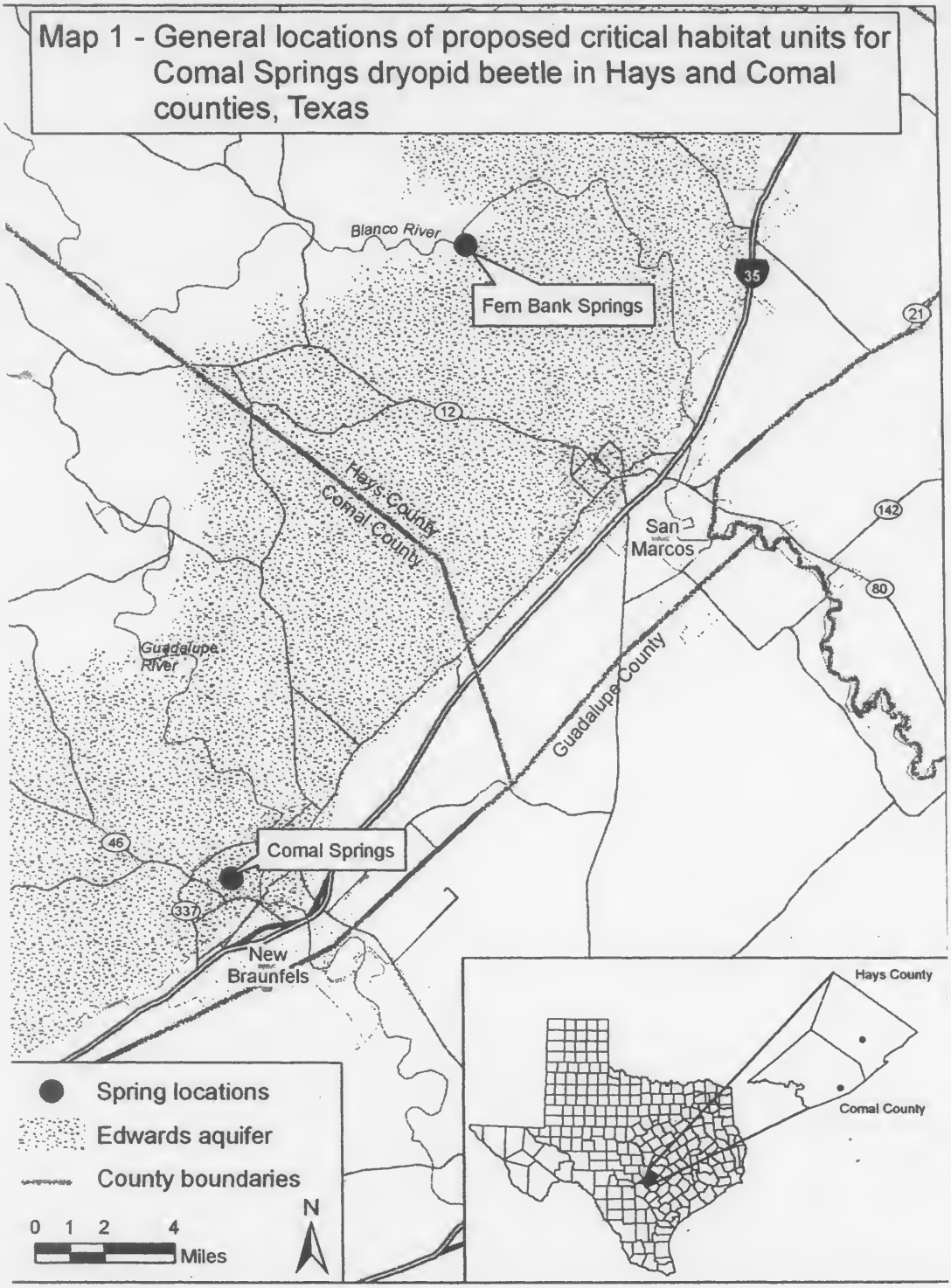
(D) A hydrologic regime with turbulent flows that provide adequate levels of dissolved oxygen in the general range of 4.0 to 10.0 mg/L for respiration of the Comal Springs dryopid beetle; and

(ii) Food supply for the Comal Springs dryopid beetle that includes, but is not limited to, detritus (decomposed materials), leaf litter, and decaying roots.

(3) Critical habitat does not include manmade structures (such as buildings, aqueducts, and roads) and the surface on which they are located that exist on the effective date of this rule and do not contain one or more of the primary constituent elements. Where lakes are proposed, critical habitat does not include the lake bottom beyond 50 feet from the spring outlet.

(4) *Critical habitat map units.* Data layers defining map units were created by using ArcGIS. All coordinates are UTM zone 14 coordinate pairs, referenced to North American Horizontal Datum 1983. Coordinates were derived from 2004 digital orthophotographs. All acreage and mileage calculations were performed using GIS.

(5) **Note:** Index map of the critical habitat units for Comal Springs dryopid beetle and Comal Springs riffle beetle (Map 1) follows:



(6) Comal Springs Unit, Comal County, Texas.

(i) Aquatic habitat areas bounded by the UTM Zone 14 NAD 83 coordinates (meters E, meters N): 583387, 3287251; 583392, 3287264; 583405, 3287280; 583404, 3287290; 583407, 3287301; 583414, 3287307; 583425, 3287308; 583425, 3287320; 583433, 3287328; 583444, 3287330; 583454, 3287325; 583463, 3287301; 583482, 3287272; 583486, 3287286; 583501, 3287296; 583520, 3287314; 583547, 3287326;

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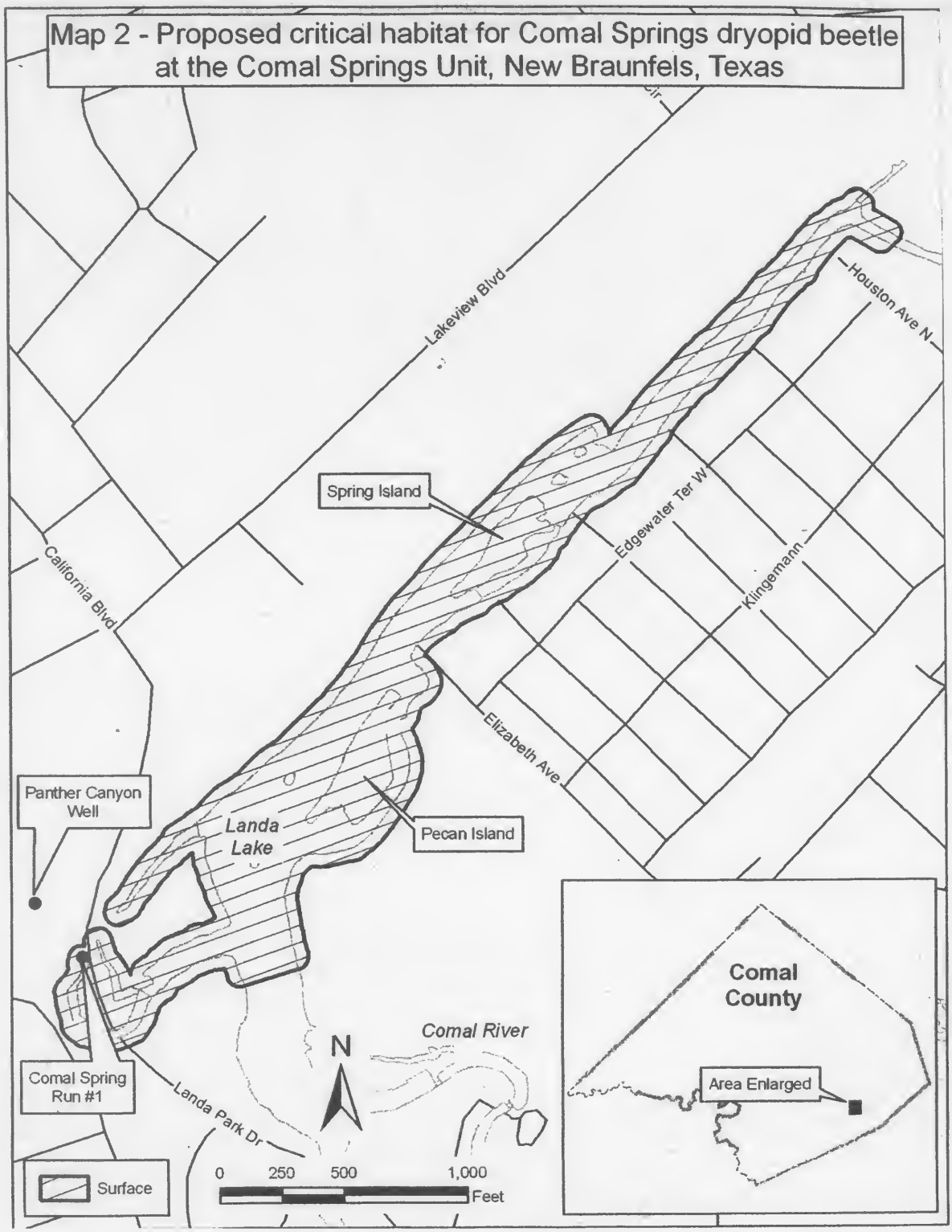
(ii) **Note:** Comal Springs Unit (Map 2) follows:

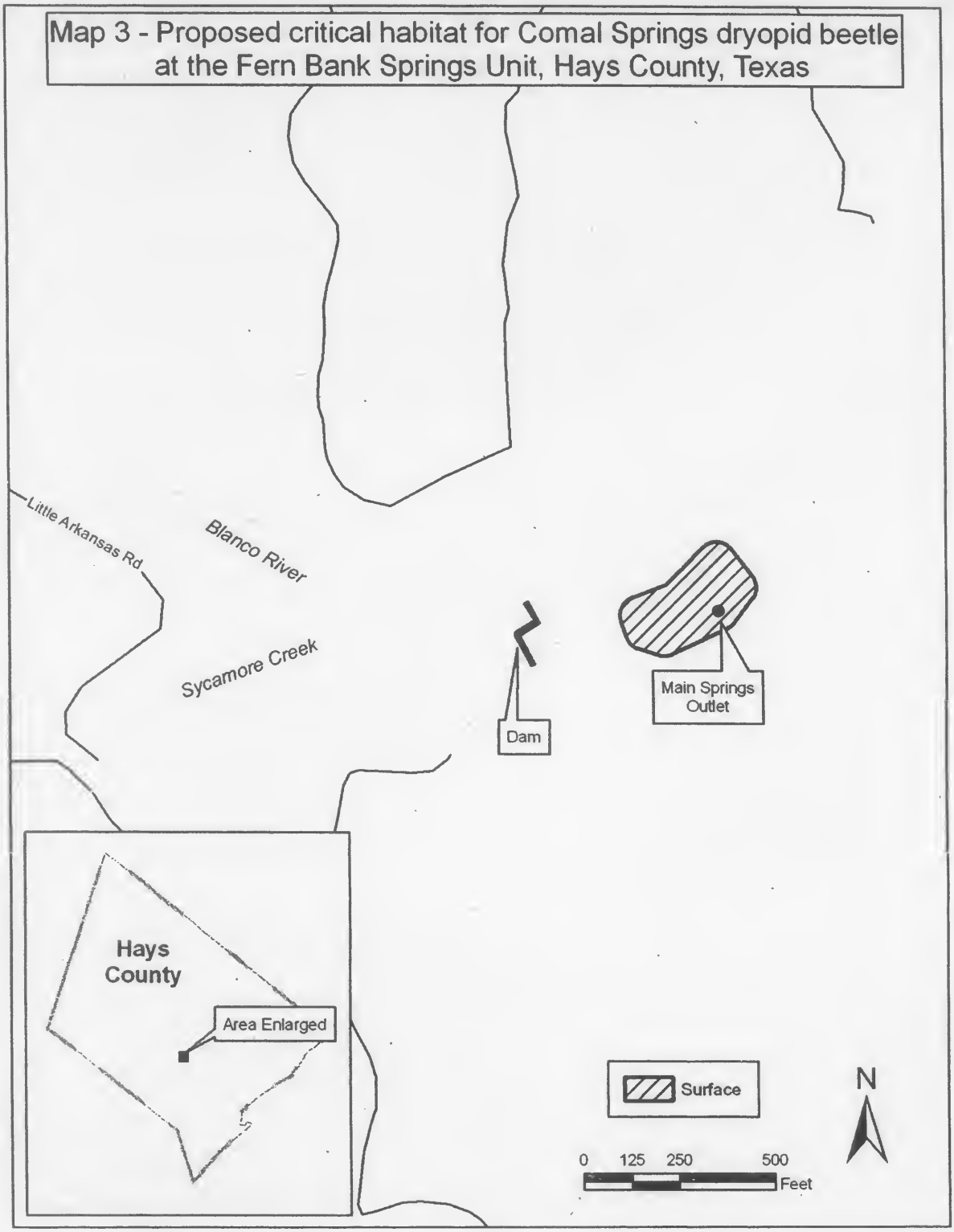


(7) Fern Bank Springs Unit, Hays County, Texas.

(i) Aquatic habitat areas bounded by the UTM Zone 14 NAD 83 coordinates (meters E, meters N): 595131, 3317374; 595131, 3317375; 595132, 3317376;

595132, 3317377; 595132, 3317378; 595132, 3317379; 595133, 3317380; 595133, 3317381; 595133, 3317382; 595134, 3317383; 595135, 3317383; 595135, 3317384; 595136, 3317385; 595137, 3317386; 595137, 3317386; 595138, 3317387; 595139, 3317387; 595140, 3317388; 595141, 3317388; 595141, 3317388; 595168, 3317398; 595181, 3317411; 595198, 3317428; 595198, 3317428; 595199, 3317429; 595199, 3317430; 595200, 3317430; 595201, 3317431; 595202, 3317431; 595203, 3317432; 595204, 3317432; 595205, 3317432; 595206, 3317432; 595207, 3317433; 595208, 3317433; 595209, 3317433; 595210, 3317433; 595211, 3317433; 595212, 3317433; 595213, 3317432; 595214, 3317432; 595214, 3317432; 595215, 3317431; 595216, 3317431; 595217, 3317430; 595218, 3317430; 595219, 3317429; 595219, 3317428; 595220, 3317428; 595221, 3317427; 595237, 3317406; 595237, 3317406; 595238, 3317405; 595238, 3317404; 595239, 3317404; 595239, 3317403; 595239, 3317402; 595240, 3317401; 595240, 3317400; 595240, 3317400; 595240, 3317399; 595240, 3317398; 595240, 3317397; 595240, 3317396; 595240, 3317395; 595240, 3317394; 595240, 3317394; 595240, 3317393; 595239, 3317392; 595239, 3317391; 595239, 3317390; 595238, 3317389; 595238, 3317388; 595237, 3317388; 595237, 3317388; 595223, 3317369; 595223, 3317369; 595222, 3317368; 595221, 3317367; 595221, 3317366; 595220, 3317366; 595219, 3317365; 595218, 3317365; 595217, 3317364; 595217, 3317364; 595173, 3317343; 595173, 3317343; 595172, 3317343; 595171, 3317342; 595170, 3317342; 595169, 3317342; 595168, 3317342; 595167, 3317342; 595166, 3317342; 595165, 3317342; 595164, 3317342; 595163, 3317342; 595162, 3317343; 595146, 3317347; 595146, 3317348; 595145, 3317348; 595144, 3317348; 595143, 3317349; 595142, 3317349; 595141, 3317350; 595141, 3317350; 595140, 3317351; 595139, 3317352; 595139, 3317352; 595139, 3317353; 595138, 3317353; 595138, 3317354; 595137, 3317355; 595137, 3317356; 595136, 3317357; 595136, 3317357; 595132, 3317369; 595132, 3317370; 595132, 3317370; 595132, 3317371; 595132, 3317372; 595131, 3317373; 595131, 3317374.

(ii) **Note:** Fern Bank Springs Unit (Map 3) follows:


Map 3 - Proposed critical habitat for Comal Springs dryopid beetle at the Fern Bank Springs Unit, Hays County, Texas
Little Arkansas Rd
Blanco River
Sycamore Creek
Dam
Main Springs Outlet
Hays County
Area Enlarged
Surface
N
0 125 250 500
Feet

* * * * *

Comal Springs riffle beetle (*Heterelmis comalensis*)

(1) Critical habitat units are depicted for Comal and Hays counties, Texas, on the maps below.

(2) The primary constituent elements of critical habitat for Comal Springs riffle beetle are the habitat components that provide:

(i) High-quality water with pollutant levels of soaps, detergents, heavy metals, pesticides, fertilizer nutrients, petroleum hydrocarbons, and semi-volatile compounds such as industrial cleaning agents no greater than those documented to currently exist and including:

(A) Low salinity with total dissolved solids that generally range from 307 to 368 mg/L; and

(B) Low turbidity that generally is less than 5 NTUs;

(C) Aquifer water temperatures that range from approximately 68 to 75 °F (20 to 24 °C);

(D) A hydrologic regime with turbulent flows that provide adequate levels of dissolved oxygen in the general range of 4.0 to 10.0 mg/L for respiration of the Comal Springs riffle beetle; and

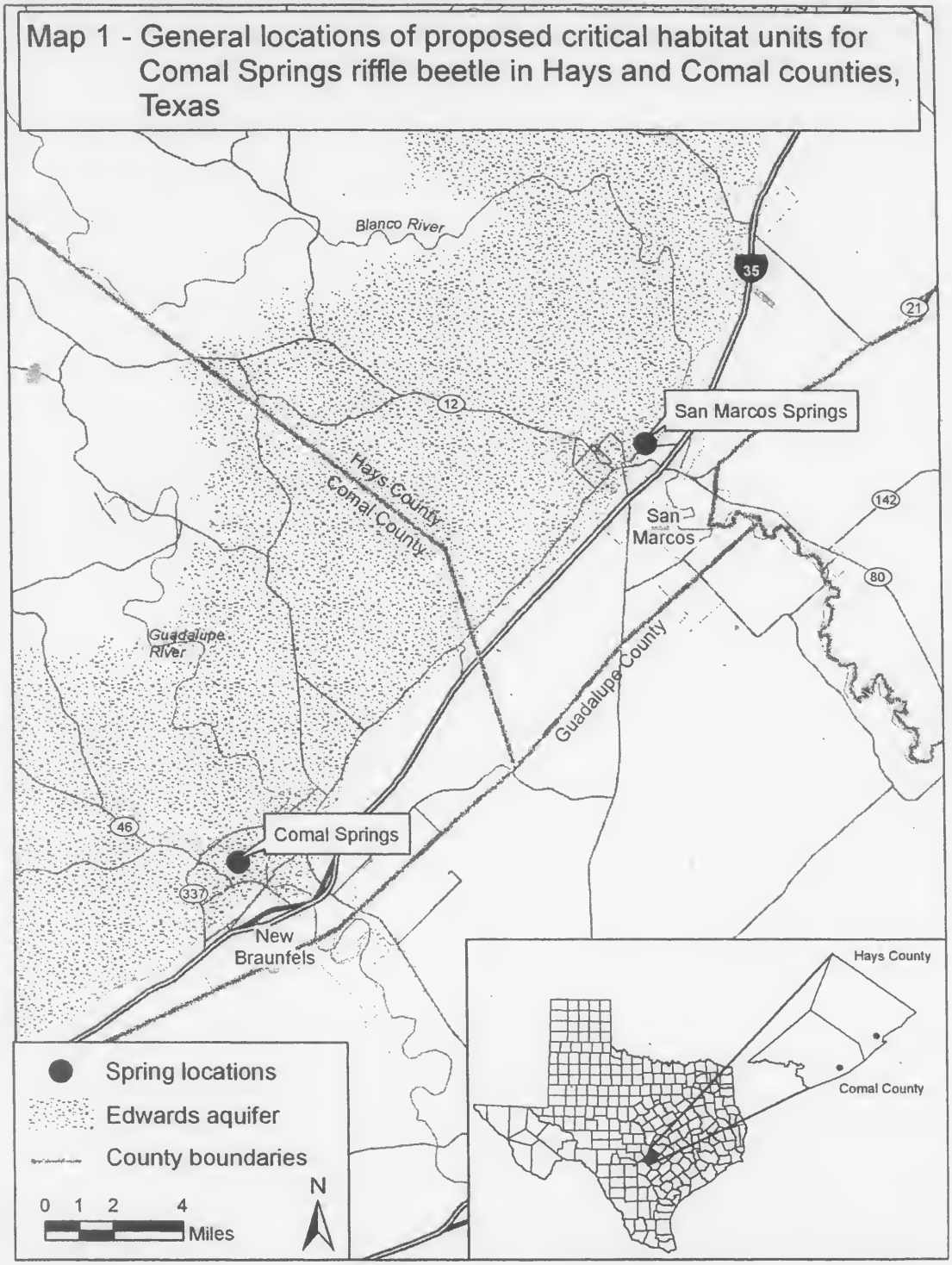
(ii) Food supply for the Comal Springs riffle beetle that includes, but is not limited to, detritus (decomposed materials), leaf litter, and decaying roots.

(iii) Bottom substrate in surface water habitat of the Comal Springs riffle beetle that is composed of sediment-free gravel and cobble ranging in size from 0.3 to 5.0 inches (8 to 128 millimeters).

(3) Critical habitat does not include manmade structures (such as buildings, aqueducts, and roads) and the surface on which they are located that exist on the effective date of this rule and do not contain one or more of the primary constituent elements. Where lakes are proposed, critical habitat does not include the lake bottom beyond 50 feet from the spring outlet.

(4) *Critical habitat map units.* Data layers defining map units were created by using ArcGIS. All coordinates are UTM zone 14 coordinate pairs, referenced to North American Horizontal Datum 1983. Coordinates were derived from 2004 digital orthophotographs. All acreage and mileage calculations were performed using GIS.

(5) **Note:** Index map of the critical habitat units for Comal Springs riffle beetle (Map 1) follows:



(6) Comal Springs Unit, Comal County, Texas.

(i) Aquatic habitat areas bounded by the UTM Zone 14 NAD 83 coordinates (meters E, meters N): 583420, 3287293; 583423, 3287293; 583426, 3287293; 583428, 3287290; 583429, 3287285; 583428, 3287280; 583426, 3287273; 583422, 3287268; 583416, 3287259; 583415, 3287255; 583415, 3287249; 583417, 3287238; 583418, 3287233; 583419, 3287228; 583418, 3287222; 583421, 3287221; 583427, 3287216;

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584261, 3288077; 584253, 3288071;
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584135, 3287942; 584127, 3287933;
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584094, 3287891; 584082, 3287884;
584072, 3287875; 584059, 3287867;
584047, 3287862; 584038, 3287855;
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584019, 3287830; 584016, 3287827;
584016, 3287827; 584013, 3287824;
584011, 3287820; 584009, 3287814;
584005, 3287811; 584000, 3287806;
583996, 3287795; 583988, 3287786;
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583792, 3287462; 583779, 3287446;
583769, 3287437; 583757, 3287428;
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583734, 3287423; 583725, 3287421;
583715, 3287420; 583709, 3287421;
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583689, 3287413; 583683, 3287407;
583679, 3287400; 583677, 3287393;
583674, 3287383; 583671, 3287371;
583672, 3287360; 583675, 3287341;
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583610, 3287289; 583606, 3287294;
583601, 3287295; 583595, 3287296;
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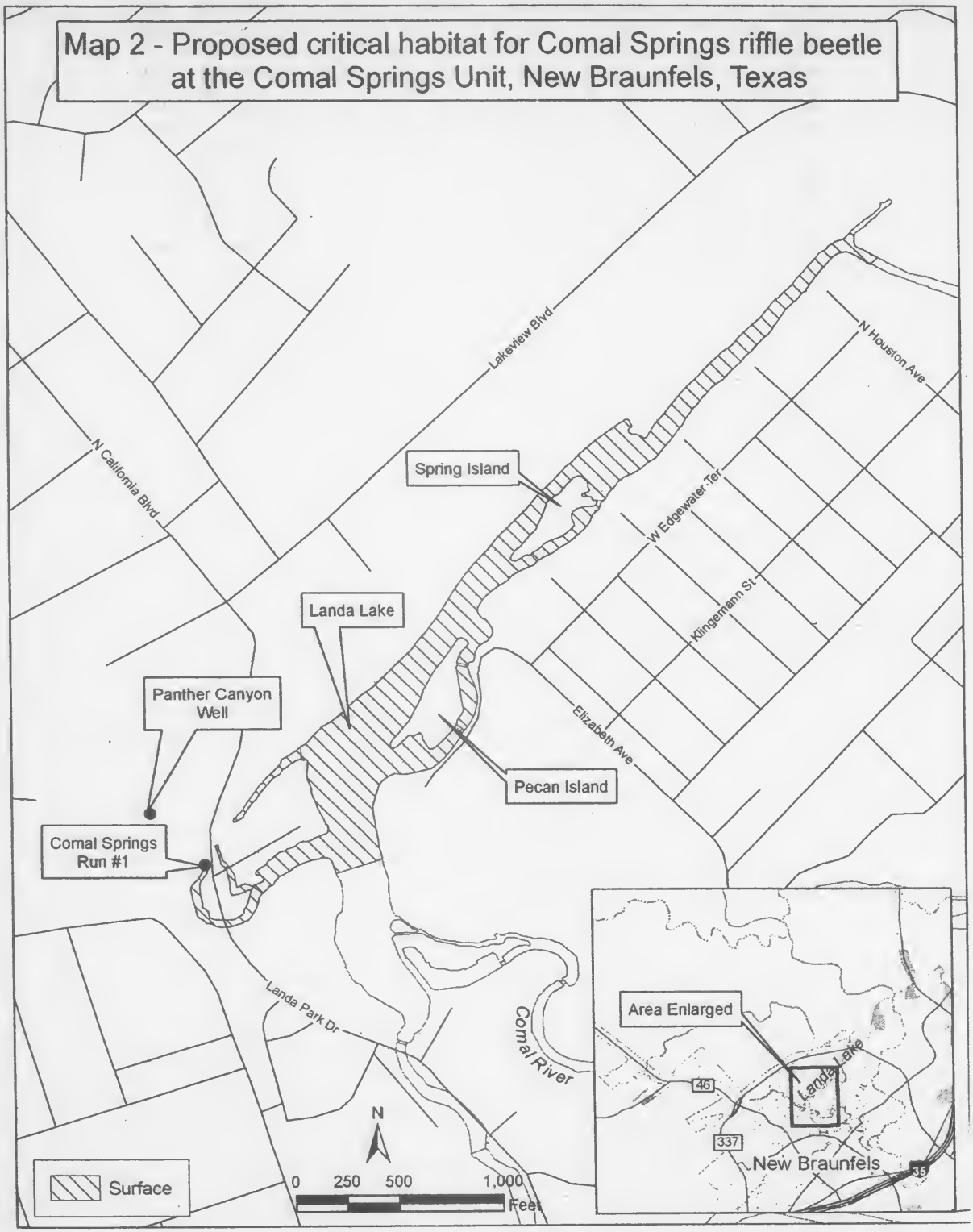
(ii) **Note:** Comal Springs Unit (Map 2) follows:

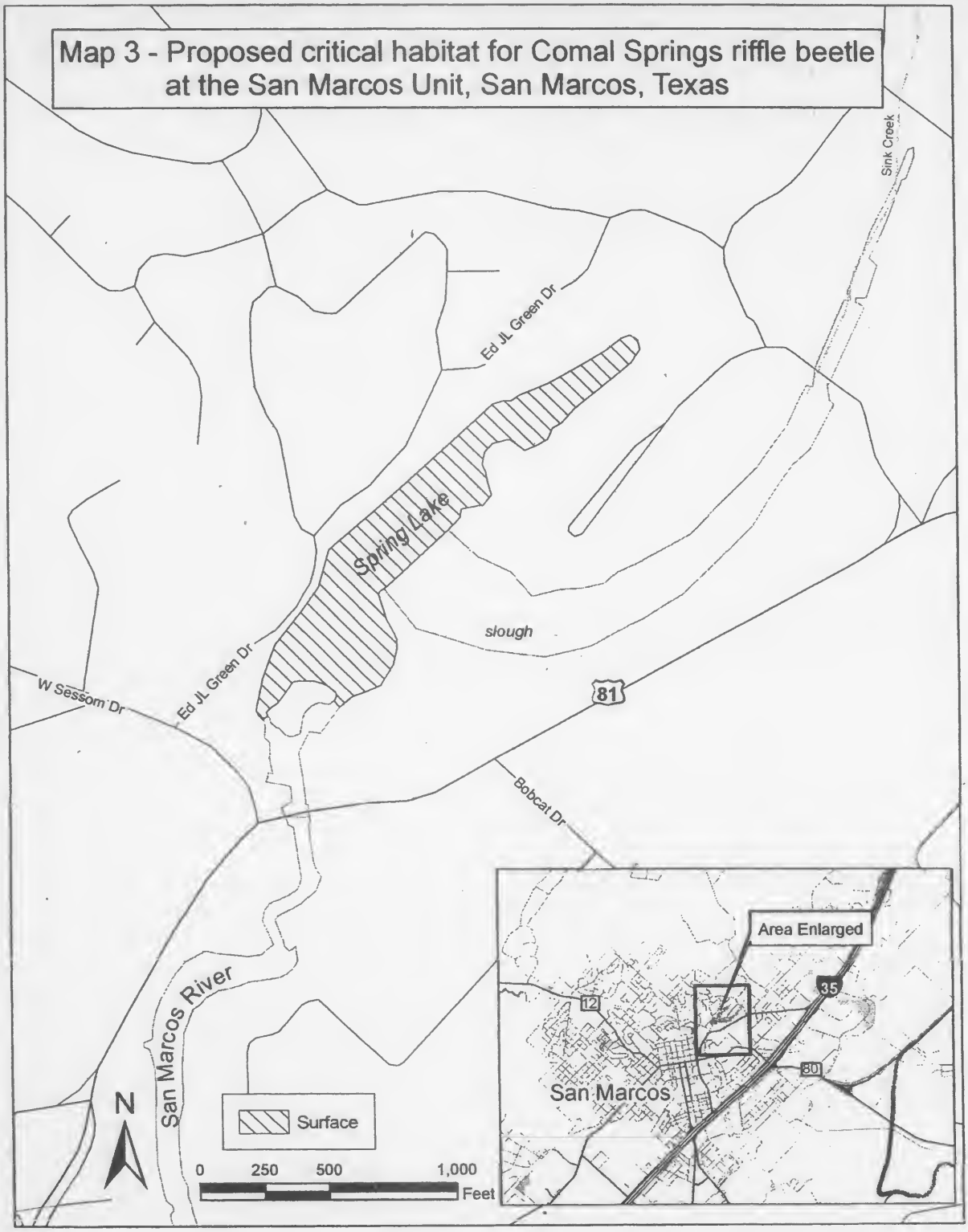


(7) San Marcos Springs Unit, Hays County, Texas.

(i) Aquatic habitat areas bounded by the UTM Zone 14 NAD 83 coordinates (meters E, meters N): 602869, 3307092; 602870, 3307100; 602877, 3307131;

602892, 3307172; 602926, 3307215; 602936, 3307229; 602942, 3307237; 602945, 3307243; 602957, 3307286; 603007, 3307329; 603072, 3307386; 603154, 3307462; 603158, 3307463; 603166, 3307466; 603175, 3307465; 603186, 3307473; 603219, 3307486; 603258, 3307508; 603288, 3307526; 603307, 3307541; 603317, 3307544; 603326, 3307539; 603329, 3307527; 603319, 3307512; 603251, 3307456; 603234. 3307439; 603224, 3307433; 603218, 3307419; 603206, 3307412; 603192, 3307406; 603175, 3307418; 603170, 3307419; 603153, 3307414; 603144, 3307404; 603141, 3307389; 603145, 3307379; 603147, 3307369; 603152, 3307352; 603141, 3307339; 603135, 3307339; 603124, 3307337; 603120, 3307336; 603116, 3307335; 603114, 3307325; 603109, 3307318; 603105, 3307315; 603104, 3307314; 603100, 3307310; 603024, 3307239; 603023, 3307240; 603019, 3307237; 603017, 3307233; 603026, 3307203; 603035, 3307187; 603038, 3307178; 603038, 3307166; 603033, 3307148; 603027, 3307138; 603018, 3307123; 603002, 3307117; 602983, 3307109; 602968, 3307097; 602962, 3307105; 602962, 3307105; 602965, 3307112; 602963, 3307116; 602958, 3307119; 602954, 3307123; 602946, 3307126; 602938, 3307129; 602928, 3307129; 602921, 3307129; 602913, 3307128; 602896, 3307105; 602894, 3307101; 602887, 3307097; 602881, 3307091; 602883, 3307087; 602877, 3307082; 602875, 3307084; 602872, 3307087; 602869, 3307092.

(ii) **Note:** San Marcos Springs Unit (Map 3) follows:


Map 3 - Proposed critical habitat for Comal Springs riffle beetle at the San Marcos Unit, San Marcos, Texas
Sink Creek
Ed JL Green Dr
Spring Lake
slough
W Sessom Dr
Ed JL Green Dr
81
Bobcat Dr
San Marcos River
N
Surface
0 250 500 1,000
Feet
Area Enlarged
35
12
80
San Marcos

* * * * *

Dated: July 7, 2006.

Matt Hogan,

Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 06–6182 Filed 7–14–06; 8:45 am]

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Federal Register

Monday,
July 17, 2006

Part III

Department of Agriculture

Agricultural Marketing Service

7 CFR Part 205
National Organic Program (NOP); Proposed Amendments to the National List of Allowed and Prohibited Substances (Livestock); Proposed Rule

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 205

[Docket Number TM–03–04]

RIN 0581–AC62

National Organic Program (NOP); Proposed Amendments to the National List of Allowed and Prohibited Substances (Livestock)

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule.

SUMMARY: This proposed rule would amend the U.S. Department of Agriculture's (USDA) National List of Allowed and Prohibited Substances (National List) regulations to reflect recommendations submitted to the Secretary of Agriculture (Secretary) by the National Organic Standards Board (NOSB) from October 30, 2000, through March 3, 2005. Consistent with the recommendations from the NOSB, this proposed rule would add thirteen substances, along with any restrictive annotations, to the National List.

DATES: Comments must be received by September 15, 2006.

ADDRESSES: Interested persons may comment on this proposed rule using the following procedures:

- *Mail:* Comments may be submitted by mail to: Arthur Neal, Director of Program Administration, National Organic Program, USDA–AMS–TMP–NOP, 1400 Independence Ave., SW., Room 4008–So., Ag Stop 0268, Washington, DC 20250.
- *E-mail:* Comments may be submitted via the Internet to: *National.List@usda.gov.*
- *Internet: www.regulations.gov.*
- *Fax:* Comments may be submitted by fax to: (202) 205–7808.
- Written comments on this proposed rule should be identified with the docket number TM–03–04. Commenters should identify the topic and section number of this proposed rule to which the comment refers.
- Clearly indicate if you are for or against the proposed rule or some portion of it and your reason for it. Include recommended language changes as appropriate.
- Include a copy of articles or other references that support your comments. Only relevant material should be submitted.

It is our intention to have all comments to this proposed rule, whether submitted by mail, e-mail, or fax, available for viewing on the NOP homepage. Comments submitted in response to this proposed rule will be available for viewing in person at USDA–AMS, Transportation and Marketing, Room 4008–South Building, 1400 Independence Ave., SW., Washington, DC, from 9 a.m. to 12 noon and from 1 p.m. to 4 p.m., Monday through Friday (except official Federal holidays). Persons wanting to visit the USDA South Building to view comments received in response to this proposed rule are requested to make an appointment in advance by calling (202) 720–3252.

FOR FURTHER INFORMATION CONTACT: Arthur Neal, Director of Program Administration, Telephone: (202) 720–3252; Fax: (202) 205–7808.

SUPPLEMENTARY INFORMATION:

I. Background.

On December 21, 2000, the Secretary established, within the NOP [7 CFR part 205], the National List regulations (§§ 205.600 through 205.607). The National List regulations identify synthetic substances and ingredients that are allowed and nonsynthetic (natural) substances and ingredients that are prohibited for use in organic production and handling. Under the authority of the Organic Foods Production Act of 1990 (OFPA), as amended, (7 U.S.C. 6501 *et seq.*), the National List can be amended by the Secretary based on proposed amendments developed by the NOSB. Since established, the National List has been amended three times, October 31, 2003 (68 FR 61987), November 3, 2003 (68 FR 62215), and October 21, 2005 (70 CFR 61217). Additionally, an amendment to the National List, proposed on September 16, 2005 (70 FR 54660), is currently pending.

This proposed rule would amend the National List to reflect recommendations submitted to the Secretary by the NOSB from November 15, 2000, through March 3, 2005. Between the specified time period, the NOSB has recommended that the Secretary add thirteen substances to § 205.603 and one substance to §1A205.604 of the National List regulations.

II. Overview of Proposed Amendments.

The following provides an overview of the proposed amendments to designated sections of the National List regulations:

Section 205.603 Synthetic substances allowed for use in organic livestock production.

This proposed rule would amend paragraph (a) of § 205.603 of the National List regulations by adding the following substances:

Atropine (CAS #—51–55–8). Atropine was petitioned for use in organic livestock production as an antidote for organophosphate poisoning usually caused by reactions to pesticides. Atropine is an anti-cholinergic drug that is derived from the plant *atropa belladonn.* It is a white, odorless crystalline powder that causes a reduction in salivary, bronchial, and sweat gland secretions, which makes it useful as an anesthetic.

At its May 13–14, 2003, meeting in Austin, TX, the NOSB recommended adding atropine to the National List for use in organic livestock as a medical treatment. In this open meeting, the NOSB evaluated atropine against the evaluation criteria of 7 U.S.C. 6517 and 6518 of the OFPA, received public comment, and concluded that atropine is consistent with the OFPA evaluation criteria.

The NOP engaged in consultations with the Food and Drug Administration (FDA) and Environmental Protection Agency (EPA) to ensure that the recommendation for atropine would be consistent with Federal regulations concerning the use of animal drugs. Based on consultations with the FDA, the NOP was informed that atropine is permitted for use in cattle, goats, horses, pigs, sheep, cats and dogs under 21 CFR 500.55, with use limitations. The NOP further learned that Federal law restricts atropine to use by or on the lawful written or oral order of a licensed veterinarian.

Concerning the use of atropine, the EPA deferred to FDA as the appropriate regulatory body. Therefore, regarding organic livestock production, the use of atropine would be considered permissible under the FDA regulations, if used in accordance with the FDA restrictions. As a result, the Secretary is proposing to accept the NOSB's recommendation for atropine and amend § 205.603(a) of the National List by adding atropine as a medical treatment in livestock production as follows:

Atropine (CAS #—51–55–8)—federal law restricts this drug to use by or on the lawful written or oral order of a licensed veterinarian.

Bismuth subsalicylate (CAS #—14887–18–9). Bismuth subsalicylate was petitioned for use in organic livestock production as an adsorbent, anti-diarrhea aid, and relief for ulcers. It is a white, odorless powder that is almost insoluble in water and decomposes in boiling water.

At its September 17–19, 2002; meeting in Washington, DC, the NOSB

recommended adding bismuth subsalicylate to the National List for use in organic livestock production as a veterinary treatment. In this open meeting, the NOSB evaluated bismuth subsalicylate against the evaluation criteria of 7 U.S.C. 6517 and 6518 of the OFPA, received public comment, and concluded that the substance is consistent with the OFPA evaluation criteria.

The NOP engaged in consultations with the FDA and EPA to ensure that the recommendation for bismuth subsalicylate would be consistent with federal regulations concerning the use of animal drugs. Based on consultations with the FDA, the NOP was informed that bismuth subsalicylate is approved as a drug for use in humans (FDA, "Approved Drug Products with Therapeutic Equivalence Evaluations, 2005".) New Animal Drug Application approvals for bismuth subsalicylate were not identified. However, the NOP learned that bismuth subsalicylate could be permitted for use in livestock production if used in full compliance with the Animal Medicinal Drug Use Clarification Act of 1994 (AMDUCA) and 21 CFR part 530 of the FDA regulations, "Provision permitting extra-label use of animal drugs." The AMDUCA and 21 CFR part 530 allow the extra-label use of approved new animal drugs or human drugs by or on the lawful written or oral order of a licensed veterinarian within the context of a valid veterinarian-client-patient relationship.

Concerning the use of bismuth subsalicylate, the EPA deferred to FDA as the appropriate regulatory body. As a result, regarding organic livestock production, the only way that bismuth subsalicylate could be considered permissible under the FDA regulations and recommended for inclusion on the National List is under the provisions of the AMDUCA and 21 CFR part 530 of the FDA regulations. Otherwise, the Secretary would not be able accept the NOSB's recommendation to include bismuth subsalicylate on the National List. Thus, after consulting with the FDA and EPA, the Secretary is proposing to amend § 205.603(a) of the National List by adding bismuth subsalicylate as a medical treatment in livestock production as follows:

Bismuth subsalicylate (CAS #—14887–18–9)—federal law restricts this drug to use by or on the lawful written or oral order of a licensed veterinarian, in full compliance with the AMDUCA and 21 CFR part 530 of the Food and Drug Administration regulations.

Butorphanol (CAS #—14887–18–9). Butorphanol was petitioned for use in organic livestock production as a pain reliever to be administered prior to surgery and under veterinary care. Butorphanol is a clear, colorless, and odorless liquid. It is most often found as butorphanol tartrate, an injectable form of the substance. Butorphanol belongs to a general class of drugs known as opiate agonists. Other related drugs in this class include buprenorphine, fentanyl, meperidine and morphine. Butorphanol has significant pain control and sedation properties, but it does not last long. Butorphanol is a controlled drug and is only available through veterinarians with an active Drug Enforcement Administration license.

At its September 17–19, 2002, meeting in Washington, DC, the NOSB recommended adding butorphanol on the National List for use in organic livestock production, with the restriction that that the withdrawal period (the interval between the time of the last administration of a sponsored compound and the time when the animal can be safely slaughtered for food or the milk can be safely consumed) for use of the substance be extended twice beyond what would be required by the FDA. In this open meeting, the NOSB evaluated butorphanol against the evaluation criteria of 7 U.S.C. 6517 and 6518 of the OFPA, received public comment, and concluded that the substance is consistent with the OFPA evaluation criteria.

The NOP engaged in consultations with the FDA and EPA to ensure that the recommendation for butorphanol would be consistent with Federal regulations concerning the use of animal drugs. Based on consultations with the FDA, the NOP was informed that butorphanol is approved as a drug for use in dogs, cats, and horses (21 CFR 522.246), with use limitations. New Animal Drug Application approvals for its use in cattle were not identified. However, the NOP learned that butorphanol could be permitted for use in livestock production if used in full compliance with the AMDUCA and 21 CFR part 530 of the FDA regulations, "Provision permitting extra-label use of animal drugs." The AMDUCA and 21 CFR part 530 allow the extra-label use of approved new animal drugs or human drugs by or on the lawful written or oral order of a licensed veterinarian within the context of a valid veterinarian-client-patient relationship.

Concerning the use of butorphanol, the EPA deferred to FDA as the appropriate regulatory body. As a result, regarding organic livestock production, the only way that butorphanol could be considered permissible under the FDA regulations and recommended for inclusion on the National List is under the provisions of the AMDUCA and 21 CFR part 530 of the FDA regulations. Otherwise, the Secretary could not accept the NOSB's recommendation to include butorphanol on the National List.

The Secretary acknowledges the NOSB's recommendation to restrict the use of butorphanol by extending the withdrawal period twice beyond what the FDA requires. However, the Secretary does not accept the recommended restriction. The recommended restriction to extend the withdrawal period twice beyond what the FDA requires would create an additional label claim for the animal drug beyond that which is permitted by the FDA. Therefore, after consulting with the FDA and EPA, the Secretary is proposing to amend § 205.603(a) of the National List by adding butorphanol as a medical treatment in livestock production as follows:

Butorphanol (CAS #—14887–18–9)—Federal law restricts this drug to use by or on the lawful written or oral order of a licensed veterinarian, in full compliance with the AMDUCA and 21 CFR part 530 of the Food and Drug Administration regulations.

Flunixin (CAS #—38677–85–9). Flunixin was petitioned for use in organic livestock production to treat inflammation and pyrexia. Flunixin is a non-narcotic, nonsteroidal analgesic agent with anti-inflammatory and antipyretic activity. It is a synthetic drug more commonly made into flunixin meglumine, which is the primary component of an injectable flunixin solution. It is administered intravenously and intramuscularly, quickly broken down internally, and cleared from the bloodstream in urine.

At its October 19–20, 2002, meeting in Washington, DC, the NOSB recommended adding flunixin on the National List as an allowed synthetic in organic livestock production, with the restriction that the withdrawal period (the interval between the time of the last administration of a sponsored compound and the time when the animal can be safely slaughtered for food or the milk can be safely consumed) for use of the substance be extended twice beyond what would be required by the FDA. In this open meeting, the NOSB evaluated flunixin against the evaluation criteria of 7 U.S.C. 6517 and 6518 of the OFPA, received public comment, and concluded that the use of the substance in organic livestock production is consistent with the OFPA evaluation criteria.

The NOP engaged in consultations with the FDA and EPA to ensure that the recommendation for flunixin would be consistent with Federal regulations concerning the use of animal drugs. Based on consultations with the FDA, the NOP was informed that flunixin is listed at 21 CFR 520.970 and 522.970, with use and labeling limitations, as an FDA approved animal drug for horses, cattle, and swine. Regarding organic livestock production, the NOP learned that the use of flunixin would be considered permissible under the FDA regulations for approved species.

Concerning the use of flunixin, the EPA deferred to FDA as the appropriate regulatory body. Therefore, after consulting with the FDA and EPA about the use of flunixin in organic livestock production, the Secretary is proposing to accept the NOSB recommendation to add flunixin to the National List. However, the Secretary does not accept the recommended restriction to extend the withdrawal period twice beyond what the FDA requires. The recommended use restriction to extend the withdrawal period twice beyond the FDA required withdrawal period would create an additional label claim for the animal drug beyond that which is permitted by the FDA.

Therefore, the Secretary is proposing to amend § 205.603(a) of the National List by adding flunixin as a medical treatment in livestock production as follows:

Flunixin (CAS #—38677–85–9)—in accordance with approved labeling.

Furosemide (CAS #—54–31–9). Furosemide was petitioned for use in organic livestock production as a livestock medical treatment for udder and pulmonary edema. Furosemide is a diuretic. It is a white or slightly yellow crystalline powder that is odorless. Furosemide is practically insoluble in water, sparingly soluble in alcohol, freely soluble in alkali solutions, and insoluble in dilute acids.

At its May 13–14, 2003, meeting in Austin, Texas, the NOSB recommended adding furosemide on the National List for use in organic livestock production, with the restriction that the withdrawal period (the interval between the time of the last administration of a sponsored compound and the time when the animal can be safely slaughtered for food or the milk can be safely consumed) for use of the substance be extended twice beyond what would be required by the FDA. In this open meeting, the NOSB evaluated furosemide against the evaluation criteria of 7 U.S.C. 6517 and 6518 of the OFPA, received public comment, and concluded that the use of the substance in organic livestock production is consistent with the OFPA evaluation criteria.

The NOP engaged in consultations with the FDA and EPA to ensure that the recommendation for furosemide would be consistent with Federal regulations concerning the use of animal drugs. Based on consultations with the FDA, the NOP was informed that furosemide is listed at 21 CFR 520.1010 and 522.1010, with use and labeling limitations, as allowed for use in treating dogs, cats, horses, and cattle. Regarding organic livestock production, the NOP learned that the use of furosemide would be considered permissible under the FDA regulations for approved species.

Concerning the use of furosemide, the EPA deferred to FDA as the appropriate regulatory body. Therefore, after consulting with the FDA and EPA about the use of furosemide in organic livestock production, the Secretary is proposing to accept the NOSB recommendation to add furosemide to the National List. However, the Secretary does not accept the recommended restriction to extend the withdrawal period twice beyond what the FDA requires. The recommended use restriction to extend the withdrawal period twice beyond the FDA required withdrawal period would create an additional label claim for the animal drug beyond that which is permitted by the FDA. Therefore, the Secretary is proposing to amend § 205.603(a) of the National List by adding furosemide as a medical treatment in livestock production as follows:

Furosemide (CAS #—54–31–9)—in accordance with approved labeling.

Magnesium hydroxide (CAS #—1309–42–8). Magnesium hydroxide was petitioned for use in organic livestock production as an antacid and laxative for temporary relief of an upset stomach and constipation. Magnesium hydroxide (brucite) is found naturally in serpentine, chlorite or dolomitic schists, or in crystalline limestones as an alteration product of periclase (magnesium oxide). It is prepared by mixing sodium hydroxide with a water-soluble magnesium salt. It is also formed by the hydration of reactive magnesium oxide. Magnesium hydroxide is mainly used in antacid or laxative tablets. Antacids are used to relieve minor stomach pain, heartburn, and hyperacidity.

At its September 17–19, 2002, meeting in Washington, DC, the NOSB recommended adding magnesium hydroxide to the National List as a synthetic substance allowed for use in organic livestock production. In this open meeting, the NOSB evaluated magnesium hydroxide against the evaluation criteria of 7 U.S.C. 6517 and 6518 of the OFPA, received public comment, and concluded that the use of the substance in organic livestock production is consistent with the OFPA evaluation criteria.

The NOP engaged in consultations with the FDA and EPA to ensure that the recommendation for magnesium hydroxide would be consistent with Federal regulations concerning the use of animal drugs. Based on consultations with the FDA, the NOP was informed that magnesium hydroxide is approved as a drug for use in humans (FDA, "Approved Drug Products with Therapeutic Equivalence Evaluations, 2005".) New Animal Drug Application approvals for its use in livestock were not identified. However, the NOP learned that magnesium hydroxide could be permitted for use in livestock production if used in full compliance with the AMDUCA and 21 CFR part 530 of the FDA regulations, "Provision permitting extra-label use of animal drugs." The AMDUCA and 21 CFR part 530 allow the extra-label use of approved new animal drugs or human drugs by or on the lawful written or oral order of a licensed veterinarian within the context of a valid veterinarian-client-patient relationship.

Concerning the use of magnesium hydroxide, the EPA deferred to FDA as the appropriate regulatory body. As a result, regarding organic livestock production, the only way that magnesium hydroxide could be considered permissible under the FDA regulations and recommended for inclusion on the National List is under the provisions of the AMDUCA and 21 CFR part 530 of the FDA regulations. Otherwise, the Secretary would not be able to accept the NOSB's recommendation to include magnesium hydroxide on the National List. Thus, after consulting with the FDA and EPA, the Secretary is proposing to amend § 205.603(a) of the National List by adding magnesium hydroxide as a medical treatment in livestock production as follows:

Magnesium hydroxide (CAS #—1309–42–8)—Federal law restricts this drug to use by or on the lawful written or oral order of a licensed veterinarian, in full compliance with the AMDUCA and 21 CFR part 530 of the Food and Drug Administration regulations.

Peroxyacetic/Peracetic acid (CAS #—79–21–0). Peracetic acid was petitioned for use in organic livestock production for facility and processing equipment sanitation. Peracetic acid is a mixture of acetic acid and hydrogen peroxide in an

aqueous solution. It is liquid, clear, and colorless with no foaming capability. Peracetic acid is primarily used to clean equipment, milking parlors, barns, stalls, and veterinary facilities. It is also used as a topical disinfectant on animals and in the handling and processing of livestock products as a dairy equipment sanitizer, meat and poultry disinfectant, and egg wash.

At its November 15–17, 2000, meeting in Washington, DC, the NOSB recommended adding peracetic acid to the National List as a synthetic substance allowed for sanitizing facility and processing equipment (e.g. barns, milking parlors, and processing areas) in organic livestock production. In this open meeting, the NOSB evaluated peracetic acid against the evaluation criteria of 7 U.S.C. 6517 and 6518 of the OFPA, received public comment, and concluded that the use of the substance in organic livestock production is consistent with the OFPA evaluation criteria.

The NOP engaged in consultations with the FDA and EPA to ensure that the recommendation for peracetic acid would be consistent with the FDA regulations concerning the approved use of the substance. Based on consultations with FDA, the NOP was informed that peracetic acid (also recognized as peroxyacetic acid and has the same Chemical Abstract System Registration number, 79–21–0) is approved by the FDA as an indirect food additive and sanitizing solution under 21 CFR 178.1010(b)(30). Concerning the use of peracetic acid, the EPA deferred to FDA as the appropriate regulatory body. As a result, the Secretary is proposing to amend § 205.603(a) by adding peracetic acid as a sanitizer in livestock production as follows:

Peroxyacetic/peracetic acid (CAS #—79–21–0)—for sanitizing facility and processing equipment.

Poloxalene (CAS #—9003–11–6). Poloxalene was petitioned for use in organic livestock production for the treatment of bloat in cattle. Poloxalene is a copolymer of polyethylene and polypropylene ether glycol. It is a non-ionic polyol surface-active agent used as a fecal softener and preventive bloat treatment in cattle. Poloxalene may be administered as a drench (orally through a tube), preventively fed in a molasses block, and as a top dressing for feed (21 CFR 520.1840).

At its March 6–7, 2001, meeting in Washington, DC, the NOSB recommended adding poloxalene to the National List as a synthetic substance allowed for use in organic livestock production, with the restriction that it only be used for the emergency treatment of bloat (not routine use). In this open meeting, the NOSB evaluated poloxalene against the evaluation criteria of 7 U.S.C. 6517 and 6518 of the OFPA, received public comment, and concluded that the use of the substance in organic livestock production is consistent with the OFPA evaluation criteria.

The NOP engaged in consultations with the FDA and EPA to ensure that the recommendation for poloxalene would be consistent with Federal regulations concerning the approved use of the substance. Based on consultations with the FDA, the NOP was informed that poloxalene is approved for the treatment of bloat in cattle (21 CFR 520.1840 and 558.464). The NOP further learned that, regarding organic livestock production, poloxalene would be considered permissible under the FDA regulations.

Concerning the use of poloxalene, the EPA deferred to FDA as the appropriate regulatory body. As a result, the Secretary is proposing to accept the NOSB's recommendation to add poloxalene to the National List. However, the Secretary does not accept the recommended restriction that poloxalene only be used for the emergency treatment of bloat. The Secretary acknowledges the NOSB's intent to limit the use of poloxalene in organic livestock production, but the recommended use restriction would create an additional label claim for the animal drug that has not been evaluated under an FDA New Animal Drug Application. Any prescriptive uses of poloxalene codified by the USDA would have to be evaluated under an FDA New Animal Drug Application. USDA does not have the authority to prescribe or restrict uses of animal drugs outside of what is already approved, permitted, or restricted under the FDA regulations. As a result, after consulting with the FDA and EPA, the Secretary is proposing to amend § 205.603(a) of the National List by adding poloxalene as a medical treatment in livestock production as follows:

Poloxalene (CAS #—9003–11–6)—in accordance with approved labeling.

Tolazoline (CAS #—59–98–3). Tolazoline was petitioned for use in organic livestock production as a medical treatment. Tolazoline is a white to off-white crystalline powder that is freely soluble in water and alcohol. It is used as a medical treatment in both humans and animals. Tolazoline has direct actions on blood vessels by decreasing the pulmonary arterial pressure and peripheral resistance, and increasing venous capacitance and cardiac output. In horses, tolazoline is used to reverse the sedative/analgesic effects of xylazine hydrochloride during surgery.

At its September 17–19, 2002, meeting in Washington, DC, the NOSB recommended adding tolazoline to the National List as a synthetic substance to be allowed for use in organic livestock production, with the restrictions that it: (1) Only be used to counteract the effects of xylazine; and (2) carry a withdrawal period (the interval between the time of the last administration of a sponsored compound and the time when the animal can be safely slaughtered for food or the milk can be safely consumed) for use of the substance be extended twice beyond what would be required by the FDA. In this open meeting, the NOSB evaluated tolazoline against the evaluation criteria of 7 U.S.C. 6517 and 6518 of the OFPA, received public comment, and concluded that the use of the substance in organic livestock production is consistent with the OFPA evaluation criteria.

The NOP engaged in consultations with the FDA and EPA to ensure that the recommendation for tolazoline would be consistent with Federal regulations concerning the approved use of the substance. Based on consultations with the FDA, the NOP was informed that tolazoline hydrochloride injection is approved for use in horses and does not have an established withdrawal period (21 CFR 522.2474). The NOP also learned that tolazoline does not have an approved use for food producing animals. However, the NOP discovered that tolazoline could be permitted for use in food animals if used in full compliance with the AMDUCA and 21 CFR part 530 of the FDA regulations, "Provision permitting extra-label use of animal drugs." The AMDUCA and 21 CFR part 530 of the FDA regulations allow the extra-label use of approved new animal drugs or human drugs by or on the lawful written or oral order of a licensed veterinarian within the context of a valid veterinarian-client-patient relationship.

Concerning the use of tolazoline, the EPA deferred to FDA as the appropriate regulatory body. As a result, regarding organic livestock production, the only way that tolazoline could be considered permissible for food producing animals under the FDA regulations and recommended for inclusion on the National List is under the provisions of the AMDUCA and 21 CFR part 530 of the FDA regulations. Otherwise, the Secretary would not be able to accept the NOSB's recommendation to include tolazoline on the National List for food producing livestock.

The Secretary acknowledges the NOSB's recommendation to restrict the use of tolazoline to only be used for counteracting the effects of xylazine. The Secretary also recognizes the NOSB's recommendation to restrict the use of tolazoline by extending the withdrawal period twice beyond what the FDA requires. However, the Secretary does not accept the recommended restrictions. Users must understand that to be used in organic livestock production, tolazoline would have to be administered under full compliance with the AMDUCA and 21 CFR part 530 of the FDA regulations. Any prescriptive uses of this drug codified by the USDA have to be evaluated under an FDA New Animal Drug Application. USDA does not have the authority to prescribe or restrict uses of animal drugs outside of what is already approved, permitted, or restricted under the FDA regulations. To do so would create an additional label claim for the animal drug beyond that which is permitted by the FDA. Therefore, after consulting with the FDA and EPA, the Secretary is proposing to amend § 205.603(a) of the National List by adding tolazoline as a medical treatment in livestock production as follows:

Tolazoline (CAS #—59–98–3)—Federal law restricts this drug to use by or on the lawful written or oral order of a licensed veterinarian, in full compliance with the AMDUCA and 21 CFR part 530 of the Food and Drug Administration regulations.

Xylazine (CAS #—7361–61–7). Xylazine was petitioned for use in organic livestock production as a medical treatment. Xylazine is a white or almost white crystalline substance that is freely soluble in water. It is used as a sedative, analgesic, and muscle relaxant in veterinary medicine. Administration of tolazoline reverses xylazine's effects, resulting in rapid recovery from sedation.

At its September 17–19, 2002, meeting in Washington, DC, the NOSB recommended adding xylazine to the National List as a synthetic substance to be allowed for use in organic livestock production, with the restrictions that it: (1) Be for emergency use only; and (2) carry a withdrawal period (the interval between the time of the last administration of a sponsored compound and the time when the animal can be safely slaughtered for food or the milk can be safely consumed) for use of the substance be extended twice beyond what would be required by the FDA. In this open meeting, the NOSB evaluated xylazine against the evaluation criteria of 7 U.S.C. 6517 and 6518 of the OFPA, received public comment, and concluded that the use of the substance in organic livestock production is consistent with the OFPA evaluation criteria.

The NOP engaged in consultations with the FDA and EPA to ensure that the recommendation for xylazine would be consistent with federal regulations concerning the approved use of the substance. Based on consultations with the FDA, the NOP was informed that xylazine hydrochloride is approved for use in cats, dogs, horses, elk, and deer. The NOP also learned that xylazine hydrochloride does not have an approved use for food producing animals (21 CFR 522.2662). However, the NOP was informed that xylazine could be permitted for use in food producing animals if used under full compliance with the AMDUCA and 21 CFR part 530 of the FDA regulations, "Provision permitting extra-label use of animal drugs." The AMDUCA and 21 CFR part 530 of the FDA regulations allow the extra-label use of approved new animal drugs or human drugs by or on the lawful written or oral order of a licensed veterinarian within the context of a valid veterinarian-client-patient relationship.

Concerning the use of xylazine, the EPA deferred to FDA as the appropriate regulatory body. As a result, regarding organic livestock production, the only way that xylazine could be considered permissible for food producing animals under the FDA regulations and recommended for inclusion on the National List is under the provisions of the AMDUCA and 21 CFR part 530 of the FDA regulations. Otherwise, the Secretary would not be able to accept the NOSB's recommendation to include xylazine on the National List for food producing livestock.

The Secretary acknowledges the NOSB's recommendation to restrict the use of xylazine for emergency use only. The Secretary also recognizes the NOSB's recommendation to restrict the use of tolazoline by extending the withdrawal period twice beyond what the FDA requires. However, the Secretary does not accept the recommended restrictions. Users must understand that to be used in organic livestock production, xylazine would have to be administered under full compliance with the AMDUCA and 21 CFR part 530 of the FDA regulations. Any prescriptive uses of this drug codified by the USDA have to be evaluated under an FDA New Animal Drug Application. USDA does not have the authority to prescribe or restrict uses of animal drugs outside of what is already approved, permitted, or restricted under the FDA regulations. To do so would create an additional label claim for the animal drug beyond that which is permitted by the FDA. Therefore, after consulting with the FDA and EPA, the Secretary is proposing to amend § 205.603(a) of the National List by adding xylazine as a medical treatment in livestock production as follows:

Xylazine (CAS #—7361–61–7)—Federal law restricts this drug to use by or on the lawful written or oral order of a licensed veterinarian, in full compliance with the AMDUCA and 21 CFR part 530 of the Food and Drug Administration regulations.

This proposed rule would amend § 205.603(d) of the National List regulations by adding the following substance:

Calcium propionate (CAS #—4075–81–4). Calcium propionate was petitioned for use in organic livestock production as a mold inhibitor in dry formulated herbal products. Calcium propionate is a white powder that is soluble in water and stable under ordinary conditions. It is used in the food and feed industry as a preservative and has effective antimicrobial characteristics.

At its September 17–19, 2002, meeting in Washington, DC, the NOSB recommended adding calcium propionate onto the National List for use in organic livestock production as a mold inhibitor in dry herbal products. In this open meeting, the NOSB evaluated calcium propionate against the evaluation criteria of 7 U.S.C. 6517 and 6518 of the OFPA, received public comment, and concluded that the substance is consistent with the OFPA evaluation criteria.

The NOP engaged in consultations with the FDA and EPA to ensure that the recommendation for calcium propionate would be consistent with Federal regulations concerning the use of feed additives. Based on consultations with the FDA, the NOP was informed that calcium propionate is allowed for use as a feed additive under 21 CFR 582.3221. Concerning the use of calcium propionate, the EPA deferred to FDA as the appropriate regulatory body. As a result, the Secretary is proposing to amend § 205.603(d) of the National List by adding calcium propionate as a feed additive for use in livestock production as follows:

Calcium propionate (CAS #—4075–81–4)—for use only as a mold inhibitor in dry herbal products.

This proposed rule would amend § 205.603 of the National List

regulations by adding a new paragraph (f) and adding the following substance:

Excipients. Excipients are defined by the FDA as any inactive ingredients that are intentionally added to therapeutic and diagnostic products, but that are: (1) Not intended to exert therapeutic effects at the intended dosage, although they may act to improve product delivery (*e.g.*, enhance absorption or control release of the drug substance); and (2) not fully qualified by existing safety data with respect to the currently proposed level of exposure, duration of exposure, or route of administration. Examples of excipients include fillers, extenders, diluents, wetting agents, solvents, emulsifiers, preservatives, flavors, absorption enhancers, sustained-release matrices, and coloring agents (FDA "Guidance for Industry Nonclinical Studies for the Safety Evaluation of Pharmaceutical Excipients, May 2005").

Through the evaluation of several active ingredients that had been petitioned for inclusion on the National List, the NOSB recognized that inactive ingredients (excipients) in medications pose one of the most problematic examples of the use of synthetic materials in organic livestock production. With respect to synthetic excipients and the verification of their inclusion in medications, it is difficult for farmers or certifying agents to identify specific excipients utilized in medications because federal law does not require excipients to appear on ingredient labels of products. In addition, identifying the use of excipients becomes challenging because product manufacturers typically treat product formulas as confidential information. As a result, a petitioner's ability to petition the NOSB to evaluate a specific excipient of a certain product formulation for inclusion on the National List becomes increasingly complicated and burdensome.

Considering the practical challenges posed by the use of excipients in medications for livestock animals, the NOSB decided to develop a recommendation that would bring a balance between standard practice and strict statutory requirements concerning the use of synthetic ingredients in organic livestock production (synthetic substances can only be used in organic production as long as they appear on the National List). The NOSB recognized that petitioners would not have any difficulty petitioning individual active synthetic ingredients intended for use as livestock medications. However, the NOSB also acknowledged the problems associated with correctly identifying excipient-active ingredient combinations/formulations and the consequences of not having appropriate excipients listed on the National List for use in combination with approved active synthetic ingredients (producers could be applying synthetic substances not allowed for use in organic production without proper knowledge).

As a result, at its October 19–20, 2002, meeting in Washington, DC, the NOSB recommended the creation of a new paragraph under § 205.603 that would recognize the categorical use of excipients utilized in the manufacturing or found in the finished product of drugs used to treat organic livestock. In recognizing the categorical use of excipients found in drugs used to treat organic livestock, the NOSB also recommended that excipients that are specifically prohibited on the National List would not be allowed for use in drugs used to treat organic livestock.

The NOP engaged in consultations with the FDA and EPA to ensure that the NOSB recommendation concerning the use of excipients would be consistent with federal regulations concerning the approved uses for the category of substances. Based on our consultations with the FDA, the NOP was informed that excipients are allowed for use in the manufacture of human and animal drugs. In addition, the FDA informed the NOP that not all excipients are inert substances; some have been shown to be potential toxicants. As a result, the FDA recommended that the NOP consider acknowledging the use of excipients that are: (1) Identified by the FDA as Generally Recognized As Safe (GRAS); (2) approved by the FDA as a food additive; or (3) included in the FDA review and approval of New Animal Drug Applications and New Drug Applications.

Concerning the use of excipients, the EPA deferred to FDA as the appropriate regulatory body. As a result, the Secretary is proposing to amend § 205.603 by adding a new paragraph (f) and recognizing excipients as allowed substances in the manufacture of drugs used to treat organic livestock as follows:

(f) Excipients, only for use in the manufacture of drugs used to treat organic livestock when the excipient is: Identified by the FDA as Generally Recognized As Safe; Approved by the FDA as a food additive; or Included in the FDA review and approval of a New Animal Drug Application or New Drug Application.

Recommendations Not Accepted

Epinephrine (CAS #—51–43–4). Epinephrine was petitioned for use in organic livestock production as a treatment for anaphylactic shock. Epinephrine is a naturally derived hormone that is secreted from the adrenal glands as part of the sympathetic nervous system in mammals. As a medical drug, epinephrine is used to stimulate heartbeat and to treat emphysema, bronchitis, bronchial asthma and other allergic conditions.

At its September 17–19, 2002, meeting in Washington, DC, the NOSB recommended adding epinephrine to § 205.604 of the National List as a prohibited natural in organic livestock production, with the restrictions that it: (1) Only be allowed for the emergency treatment of anaphylactic shock; and (2) carry a withdrawal period (the interval between the time of the last administration of a sponsored compound and the time when the animal can be safely slaughtered for food or the milk can be safely consumed) for use of the substance be extended twice beyond what would be required by the FDA. In this open meeting, the NOSB evaluated epinephrine against the evaluation criteria of 7 U.S.C. 6517 and 6518 of the OFPA, received public comment, and concluded that the general use of epinephrine in organic livestock production is not consistent with the OFPA evaluation criteria and should be restricted because it is a hormone. The OFPA states that for a farm to be certified as an organic farm, with respect to the livestock produced by the farm, producers shall not use growth promoters and hormones on livestock, whether implanted, ingested, or injected (7 U.S.C. 6509(c)(3)).

The NOP engaged in consultations with the FDA and EPA to ensure that the recommendation for epinephrine would be consistent with Federal regulations concerning the use of animal drugs. Based on consultations with the FDA, the NOP was informed that epinephrine is listed at 21 CFR 500.65, with use and labeling limitations, as the emergency treatment for anaphylactic shock in cattle, horses, sheep, and swine. The NOP also learned that epinephrine, when used in animals, cannot be used outside of the provisions of 21 CFR 500.65. Concerning the use of epinephrine, the EPA deferred to FDA as the appropriate regulatory body.

In review of the NOSB recommendation for restricting the use of epinephrine and the information gathered through consultation with the FDA, we believe that the intent of the NOSB's recommendation is already satisfied through the FDA restrictions on the use of epinephrine in livestock

production. We believe that listing epinephrine at § 205.604 as a "nonsynthetic substance prohibited for use in organic livestock production" would be confusing to users of the National List. Since epinephrine is a non-synthetic substance, currently allowed in organic production, and restricted "for emergency use only" under the FDA regulations, further restriction under the NOP regulations is not necessary. As a result, the Secretary is proposing not to accept the NOSB recommendation to add epinephrine to § 205.604 of the National List as a "nonsynthetic substance prohibited for use in organic livestock production."

Moxidectin (CAS #—113507–06–5). Moxidectin was petitioned for use in organic livestock production as a medical treatment for controlling internal and external parasites. Moxidectin is a macrolide antibiotic that is chemically synthesized from nemadectin, an antibiotic produced in the fermentation of streptomyces cyaneogriseus sp. noncyanogenus. Moxidectin is effective against gastrointestinal roundworms, lungworms, cattle grubs, mites, lice and horn flies. Although moxidectin is a macrolide antibiotic, it was petitioned for use as a parasiticide.

At its April 28–30, 2004, meeting in Chicago, IL, the NOSB recommended adding moxidectin to the National List, with the restriction that it only be allowed for use to control internal parasites. In this open meeting, the NOSB evaluated moxidectin against the evaluation criteria of 7 U.S.C. 6517 and 6518 of the OFPA, received public comment, and concluded that the use of the substance in organic livestock production is consistent with the OFPA evaluation criteria.

The NOP engaged in consultations with the FDA and EPA to ensure that the recommendation for moxidectin would be consistent with the federal regulations concerning the approved use of the substance. Based on consultations with the FDA, the NOP was informed that moxidectin is approved for use by the FDA for treatment and control of internal and external parasites in beef and dairy cattle (21 CFR 524.1451). Concerning the use of moxidectin, the EPA deferred to FDA as the appropriate regulatory body.

Although moxidectin is approved for use in beef and dairy cattle by the FDA, the Secretary cannot accept the NOSB's recommendation to add moxidectin to the National List because it is a macrolide antibiotic. The Secretary received a recommendation from the NOSB, during its October 12–14, 2004, meeting to clarify that antibiotics are not allowed for the production of organic animals or edible organic products once a producer is certified organic. The Secretary accepted this recommendation and issued the recommended clarification on April 22, 2005 (*http://www.ams.usda.gov/nop/NOP/PolicyStatements/USDANOSBFeedback3_10_05.pdf*). The Secretary acknowledges that moxidectin has been petitioned for use as a parasiticide, however, the Secretary cannot overlook the fact that moxidectin is a macrolide antibiotic. Due to this fact, the Secretary cannot accept the NOSB recommendation to permit the use of moxidectin in organic livestock production.

Activated charcoal, Calcium borogluconate, Calcium propionate, Kaolin pectin, Mineral oil, and Propylene glycol. The NOSB made six recommendations to the Secretary regarding the inclusion of activated charcoal, calcium borogluconate, calcium propionate, kaolin pectin, mineral oil, and propylene glycol as substances that should be allowed for use as veterinary treatments in organic livestock production. Based on consultations with the FDA, the NOP was informed that those substances were not approved by the FDA for use in cattle and would not qualify for extra-label use by a licensed veterinarian under the AMDUCA. The EPA deferred to FDA as the appropriate regulatory body for the use of the substances. As a result, the Secretary, at this time, cannot accept the recommendations to allow the use of those six substances under § 205.603, as livestock medications. The Secretary remains in consultation concerning the use of these six substances in organic livestock production. However, until otherwise notified by the Secretary, synthetic activated charcoal, calcium borogluconate, calcium propionate, kaolin pectin, mineral oil, and propylene glycol will remain prohibited for use in organic livestock production.

III. Related Documents

Six notices were published regarding the meetings of the NOSB and its deliberations on recommendations and substances petitioned for amending the National List. Substances and recommendations included in this proposed rule were announced for NOSB deliberation in the following **Federal Register** Notices: (1) 65 FR 64657, October 30, 2000, (Calcium borogluconate); (2) 66 FR 10873, February 20, 2001, (Poloxalene); (3) 67 FR 54784, August 26, 2002, (Activated charcoal, Bismuth subsalicylate, Butorphanol, Epinephrine, Kaolin pectin, Magnesium hydroxide, Potassium sorbate, Propylene glycol, Tolazoline, and Xylazine); (4) 67 FR 62949, October 9, 2002, (Excipients and Flunixin); (5) 68 FR 23277, May 1, 2003, (Atropine, Calcium propionate, Furosemide, and Mineral oil); and (6) 69 FR 18036, April 6, 2004, (Moxidectin).

IV. Statutory and Regulatory Authority

The OFPA, as amended (7 U.S.C. 6501 *et seq.*), authorizes the Secretary to make amendments to the National List based on proposed amendments developed by the NOSB. Sections 6518(k)(2) and 6518(n) of OFPA authorize the NOSB to develop proposed amendments to the National List for submission to the Secretary and establish a petition process by which persons may petition the NOSB for the purpose of having substances evaluated for inclusion on or deletion from the National List. The National List petition process is implemented under § 205.607 of the NOP regulations. The current petition process (65 FR 43259) can be accessed through the NOP Web site at *http://www.ams.usda.gov/nop*.

A. Executive Order 12866

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

B. Executive Order 12988

Executive Order 12988 instructs each executive agency to adhere to certain requirements in the development of new and revised regulations in order to avoid unduly burdening the court system. This proposed rule is not intended to have a retroactive effect.

States and local jurisdictions are preempted under section 2115 of the OFPA (7 U.S.C. 6514) from creating programs of accreditation for private persons or State officials who want to become certifying agents of organic farms or handling operations. A governing State official would have to apply to USDA to be accredited as a certifying agent, as described in section 2115(b) of the OFPA (7 U.S.C. 6514(b)). States are also preempted under sections 2104 through 2108 of the OFPA (7 U.S.C. 6503 through 6507) from creating certification programs to certify organic farms or handling operations unless the State programs have been submitted to, and approved by, the Secretary as meeting the requirements of the OFPA.

Pursuant to section 2108(b)(2) of the OFPA (7 U.S.C. 6507(b)(2)), a State organic certification program may contain additional requirements for the

production and handling of organically produced agricultural products that are produced in the State and for the certification of organic farm and handling operations located within the State under certain circumstances. Such additional requirements must: (a) Further the purposes of the OFPA, (b) not be inconsistent with the OFPA, (c) not be discriminatory toward agricultural commodities organically produced in other States, and (d) not be effective until approved by the Secretary.

Pursuant to section 2120(f) of the OFPA (7 U.S.C. 6519(f)), this proposed rule would not alter the authority of the Secretary under the Federal Meat Inspection Act (21 U.S.C. 601 *et seq.*), the Poultry Products Inspections Act (21 U.S.C. 451 *et seq.*), or the Egg Products Inspection Act (21 U.S.C. 1031 *et seq.*), concerning meat, poultry, and egg products, nor any of the authorities of the Secretary of Health and Human Services under the Federal Food, Drug and Cosmetic Act (21 U.S.C. 301 *et seq.*), nor the authority of the Administrator of the Environmental Protection Agency (EPA) under the Federal Insecticide, Fungicide and Rodenticide Act (7 U.S.C. 136 *et seq.*).

Section 2121 of the OFPA (7 U.S.C. 6520) provides for the Secretary to establish an expedited administrative appeals procedure under which persons may appeal an action of the Secretary, the applicable governing State official, or a certifying agent under this title that adversely affects such person or is inconsistent with the organic certification program established under this title. The OFPA also provides that the U.S. District Court for the district in which a person is located has jurisdiction to review the Secretary's decision.

C. Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA) (5 U.S.C. 601 *et seq.*) requires agencies to consider the economic impact of each rule on small entities and evaluate alternatives that would accomplish the objectives of the rule without unduly burdening small entities or erecting barriers that would restrict their ability to compete in the market. The purpose is to fit regulatory actions to the scale of businesses subject to the action. Section 605 of the RFA allows an agency to certify a rule, in lieu of preparing an analysis, if the rulemaking is not expected to have a significant economic impact on a substantial number of small entities.

Pursuant to the requirements set forth in the RFA, the Agricultural Marketing Service (AMS) performed an economic impact analysis on small entities in the final rule published in the **Federal Register** on December 21, 2000 (65 FR 80548). The AMS has also considered the economic impact of this action on small entities. The impact on entities affected by this proposed rule would not be significant. The effect of this proposed rule would be to allow the use of additional substances in agricultural production and handling. This action would relax the regulations published in the final rule and would provide small entities with more tools to use in day-to-day operations. The AMS concludes that the economic impact of this addition of allowed substances, if any, would be minimal and entirely beneficial to small agricultural service firms. Accordingly, USDA certifies that this rule will not have a significant economic impact on a substantial number of small entities.

Small agricultural service firms, which include producers, handlers, and accredited certifying agents, have been defined by the Small Business Administration (SBA) (13 CFR 121.201) as those having annual receipts of less than $6,500,000 and small agricultural producers are defined as those having annual receipts of less than $750,000. This proposed rule would have an impact on a substantial number of small entities.

The U.S. organic industry at the end of 2001 included nearly 6,949 certified organic crop and livestock operations. These operations reported certified acreage totaling more than 2.09 million acres of organic farm production. Data on the numbers of certified organic handling operations (any operation that transforms raw product into processed products using organic ingredients) were not available at the time of survey in 2001; but they were estimated to be in the thousands. By the end of 2004, the number of certified organic crop, livestock, and handling operations totaled nearly 11,400 operations. Based on 2003 data, certified organic acreage increased to 2.2 million acres.

U.S. sales of organic food and beverages have grown from $1 billion in 1990 to an estimated $12.2 billion in 2004. Organic food sales are projected to reach $14.5 billion for 2005; total U.S. organic sales, including nonfood uses, are expected to reach $15 billion in 2005. The organic industry is viewed as the fasting growing sector of agriculture, representing 2 percent of overall food and beverage sales. Since 1990, organic retail sales have historically demonstrated a growth rate between 20 to 24 percent each year. This growth rate is projected to decline and fall to a rate of 5 to 10 percent in the future.

In addition, USDA has accredited 96 certifying agents who have applied to USDA to be accredited in order to provide certification services to producers and handlers. A complete list of names and addresses of accredited certifying agents may be found on the AMS NOP Web site, at *http://www.ams.usda.gov/nop*. AMS believes that most of these entities would be considered small entities under the criteria established by the SBA.

D. Paperwork Reduction Act

Under the OFPA, no additional collection or recordkeeping requirements are imposed on the public by this proposed rule. Accordingly, OMB clearance is not required by section 350(h) of the Paperwork Reduction Act of 1995, 44 U.S.C. 3501, *et seq.*, or OMB's implementing regulation at 5 CFR part 1320.

AMS is committed to compliance with the Government Paperwork Elimination Act (GPEA), which requires Government agencies in general to provide the public the option of submitting information or transacting business electronically to the maximum extent possible.

E. General Notice of Public Rulemaking

This proposed rule reflects recommendations submitted to the Secretary by the NOSB. The 13 substances proposed to be added to the National List were based on petitions from the industry. The NOSB evaluated each petition using criteria in the OFPA. Because these substances are critical to organic production and handling operations, producers and handlers should be able to use them in their operations as soon as possible. A 60-day period for interested persons to comment on this rule is provided.

List of Subjects in 7 CFR Part 205.

Administrative practice and procedure, Agriculture, Animals, Archives and records, Imports, Labeling, Organically produced products, Plants, Reporting and recordkeeping requirements, Seals and insignia, Soil conservation.

For the reasons set forth in the preamble, 7 CFR part 205, Subpart G is proposed to be amended as follows:

PART 205—NATIONAL ORGANIC PROGRAM

1. The authority citation for 7 CFR part 205 continues to read as follows:

Authority: 7 U.S.C. 6501–6522.

2. Section 205.603 is revised to read as follows:

§ 205.603 Synthetic substances allowed for use in organic livestock production.

In accordance with restrictions specified in this section the following synthetic substances may be used in organic livestock production:

(a) As disinfectants, sanitizer, and medical treatments as applicable.

(1) Alcohols (Ethanol-disinfectant and sanitizer only, prohibited as a feed additive; and Isopropanol-disinfectant only.)

(2) Aspirin-approved for health care use to reduce inflammation.

(3) *Atropine (CAS #—51–55–8)*—Federal law restricts this drug to use by or on the lawful written or oral order of a licensed veterinarian.

(4) *Biologics*—Vaccines.

(5) *Bismuth subsalicylate (CAS #—14887–18–9)*—Federal law restricts this drug to use by or on the lawful written or oral order of a licensed veterinarian, in full compliance with the Animal Medicinal Drug Use Clarification Act of 1994 and 21 CFR part 530 of the Food and Drug Administration regulations.

(6) *Butorphanol (CAS #—14887–18–9)*—Federal law restricts this drug to use by or on the lawful written or oral order of a licensed veterinarian, in full compliance with the Animal Medicinal Drug Use Clarification Act of 1994 and 21 CFR part 530 of the Food and Drug Administration regulations.

(7) *Chlorhexidine*—Allowed for surgical procedures conducted by a veterinarian. Allowed for use as a teat dip when alternative germicidal agents and/or physical barriers have lost their effectiveness.

(8) *Chlorine materials*—disinfecting and sanitizing facilities and equipment. Residual chlorine levels in the water shall not exceed the maximum residual disinfectant limit under the Safe Drinking Water Act (Calcium hypochlorite; Chlorine dioxide; and Sodium hypochlorite.)

(9) *Electrolytes*—without antibiotics.

(10) *Flunixin (CAS #—38677–85–9)*—in accordance with approved labeling.

(11) *Furosemide (CAS #—54–31–9)*—in accordance with approved labeling.

(12) Glucose.

(13) *Glycerine*—Allowed as a livestock teat dip, must be produced through the hydrolysis of fats or oils.

(14) Hydrogen peroxide.

(15) Iodine.

(16) *Magnesium hydroxide (CAS #—1309–42–8)*—Federal law restricts this drug to use by or on the lawful written or oral order of a licensed veterinarian, in full compliance with the Animal Medicinal Drug Use Clarification Act of 1994 and 21 CFR part 530 of the Food and Drug Administration regulations.

(17) Magnesium sulfate.

(18) *Oxytocin*—use in postparturition therapeutic applications.

(19) Paraciticides. *Ivermectin*—prohibited in slaughter stock, allowed in emergency treatment for dairy and breeder stock when organic system plan-approved preventive management does not prevent infestation. Milk or milk products from a treated animal cannot be labeled as provided for in subpart D of this part for 90 days following treatment. In breeder stock, treatment cannot occur during the last third of gestation if the progeny will be sold as organic and must not be used during the lactation period for breeding stock.

(20) *Peroxyacetic/peracetic acid (CAS #—79–21–0)*—for sanitizing facility and processing equipment.

(21) *Phosphoric acid*—allowed as an equipment cleaner, Provided, That, no direct contact with organically managed livestock or land occurs.

(22) *Poloxalene (CAS #—9003–11–6)*—in accordance with approved labeling.

(23) *Tolazoline (CAS #—59–98–3)*—Federal law restricts this drug to use by or on the lawful written or oral order of a licensed veterinarian, in full compliance with the Animal Medicinal Drug Use Clarification Act of 1994 and 21 CFR part 530 of the Food and Drug Administration regulations.

(24) *Xylazine (CAS #—7361–61–7)*—Federal law restricts this drug to use by or on the lawful written or oral order of a licensed veterinarian, in full compliance with the Animal Medicinal Drug Use Clarification Act of 1994 and 21 CFR part 530 of the Food and Drug Administration regulations.

(b) As topical treatment, external parasiticide or local anesthetic as applicable.

(1) Copper sulfate.

(2) Iodine.

(3) *Lidocaine*—as a local anesthetic. Use requires a withdrawal period of 90 days after administering to livestock intended for slaughter and 7 days after administering to dairy animals.

(4) *Lime, hydrated*—as an external pest control, not permitted to cauterize physical alterations or deodorize animal wastes.

(5) *Mineral oil*—for topical use and as a lubricant.

(6) *Procaine*—as a local anesthetic, use requires a withdrawal period of 90 days after administering to livestock intended for slaughter and 7 days after administering to dairy animals.

(c) *As feed supplements*—Milk replacers without antibiotics, as emergency use only, no nonmilk products or products from BST treated animals.

(d) As feed additives.

(1) *Calcium propionate (CAS #—4075–81–4)*—for use only as a mold inhibitor in dry herbal products.

(2) *DL*—Methionine, DL-Methionine—hydroxy analog, and DL-Methionine—hydroxy analog calcium—for use only in organic poultry production until October 1, 2008.

(3) Trace minerals, used for enrichment or fortification when FDA approved.

(4) Vitamins, used for enrichment or fortification when FDA approved.

(e) As synthetic inert ingredients as classified by the Environmental Protection Agency (EPA), for use with nonsynthetic substances or a synthetic substances listed in this section and used as an active pesticide ingredient in accordance with any limitations on the use of such substances.

(1) *EPA List 4*—Inerts of Minimal Concern.

(2) [Reserved]

(f) Excipients, only for use in the manufacture of drugs used to treat organic livestock when the excipient is: Identified by the FDA as Generally Recognized As Safe; Approved by the FDA as a food additive; or Included in the FDA review and approval of a New Animal Drug Application or New Drug Application.

(g)–(z) [Reserved]

* * * * *

Dated: July 3, 2006.

Lloyd C. Day,

Administrator, Agricultural Marketing Service.

[FR Doc. 06–6103 Filed 7–14–06; 8:45 am]

BILLING CODE 3410–02–P

Federal Register

Monday,
July 17, 2006

Part IV

Department of Housing and Urban Development

Statutory Prohibition on Use of HUD Fiscal Year (FY) 2006 Funds for Eminent Domain-Related Activities; Notice

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–5077–N–01]

Statutory Prohibition on Use of HUD Fiscal Year (FY) 2006 Funds for Eminent Domain-Related Activities

AGENCY: Office of the General Counsel, HUD.

ACTION: Notice.

SUMMARY: The statute appropriating FY2006 funds for HUD and certain other executive departments and agencies includes an administrative provision that prohibits the use of FY2006 funds to support any Federal, state or local project that seeks to use the power of eminent domain, unless that power is sought for certain public uses. With the commencement of allocation of FY2006 funds under HUD's formula funded programs such as the Community Development Block Grant (CDBG) program and publication of HUD's FY2006 Super Notice of Funding Availability (SuperNOFA) on March 8, 2006, this notice advises that this provision may be applicable to certain activities funded by FY2006 HUD appropriations.

FOR FURTHER INFORMATION CONTACT: For further information concerning applicability of the eminent domain provision to HUD's Community Development Block Grant program, contact Stanley Gimont, Director, Entitlement Communities Division, Office of Community Planning and Development, Department of Housing and Urban Development, 451 Seventh Street, SW., Room 7282, Washington, DC 20410, telephone (202) 708–1577 (this is not a toll free number). For information concerning the applicability of the eminent domain provision to other HUD programs or for legal questions about the provision, contact Elton Lester, Assistant General Counsel for Community Development, Office of General Counsel, Department of Housing and Urban Development, 451 Seventh Street, SW, Room 8158, Washington, DC 20410, telephone (202) 708–2027 (this is not a toll free number). Persons with hearing or speech impairments may access these numbers by calling the toll free Federal Information Relay Service at (800) 877–8339.

SUPPLEMENTARY INFORMATION:

I. Background

On November 30, 2005, President Bush signed into law the Transportation, Treasury, Housing and Urban Development, the Judiciary, the District of Columbia, and Independent Agencies Appropriations Act for FY2006 (Pub. L. 109–115) (TTHUD FY2006 Appropriations Act). The TTHUD FY2006 Appropriations Act includes an administrative provision in Title VII (General Provisions of the Act), section 726, which restricts the use of funds appropriated under the act to support any federal, state, or local project that seeks to use the power of eminent domain unless eminent domain is employed only for a public use that does not involve economic development which primarily benefits private entities.

Senator Christopher S. Bond introduced the amendment in response to the June 23, 2005 decision of the U.S. Supreme Court in the case of *Kelo* v. *City of New London* (125 S.Ct. 2655 (2005)). (Section 726 is also commonly referred to as the Bond Amendment.) The *Kelo* case involved the exercise of eminent domain authority by the City of New London, Connecticut, to condemn privately owned real property (privately owned homes) so that the property could be used as part of a comprehensive development plan that the city submitted would help revitalize its ailing economy. In this case, the Supreme Court held that the power of eminent domain can be used to transfer private property to new private owners in furtherance of an economic development plan without violating the "public use" requirement of the Fifth Amendment.[1]

In response to this Supreme Court decision, Senator Bond, Chairman of the Senate Appropriations Subcommittee that appropriates funds for the Departments of HUD, Transportation, Treasury, and certain other executive agencies, introduced an amendment to be included in the TTHUD FY2006 Appropriations Act that prohibits the use of federal funds for certain activities that involve the exercise of the power of eminent domain. The Senator stated "This amendment seeks to put some guidelines in place when it comes to the use of federal funds on projects where eminent domain is used. We need to take a closer look at how the use of eminent domain is effecting our communities." (See *http://bond.senate.gov/press_section/record.cfm?id=247420.*)

[1] Previous decisions of the Court in *Berman* v. *Parker*, 348 U.S. 26 (1954), and *Hawaii Housing Authority* v. *Midkiff*, 467 U.S. 229 (1984), had held that a private re-use of property taken by eminent domain constitutes a public use when it is for the public purpose of redeveloping a blighted area, or reducing extreme concentrations of land ownership, respectively.

The full text of Section 726 states as follows:

SEC. 726. No funds in this Act may be used to support any Federal, State, or local projects that seek to use the power of eminent domain, unless eminent domain is employed only for a public use: *Provided,* That for purposes of this section, public use shall not be construed to include economic development that primarily benefits private entities: *Provided further,* That any use of funds for mass transit, railroad, airport, seaport or highway projects as well as utility projects which benefit or serve the general public (including energy-related, communication-related, water-related and wastewater-related infrastructure), other structures designated for use by the general public or which have other common-carrier or public-utility functions that serve the general public and are subject to regulation and oversight by the government, and projects for the removal of an immediate threat to public health and safety or brownsfield as defined in the Small Business Liability Relief and Brownsfield Revitalization Act (Public Law 107–118) shall be considered a public use for purposes of eminent domain: *Provided further,* That the Government Accountability Office, in consultation with the National Academy of Public Administration, organizations representing State and local governments, and property rights organizations, shall conduct a study to be submitted to the Congress within 12 months of the enactment of this Act on the nationwide use of eminent domain, including the procedures used and the results accomplished on a state-by-state basis as well as the impact on individual property owners and on the affected communities.

II. Applicability of Section 726

A. Applicability of Section 726 Generally

1. *Applicable Only to Certain Federal Departments and Agencies.* Section 726 is not a governmentwide prohibition. Section 726's prohibition on the use of FY2006 federal funds to support projects that involve the exercise of eminent domain authority applies only to the Departments of Transportation, Treasury, HUD and the other executive agencies for which funds are appropriated under the TTHUD FY2006 Appropriations Act.

2. *Applicable Only to Use of FY2006 Appropriated Funds.* Section 726 is limited to the use of FY2006 funds appropriated under the TTHUD FY2006 Appropriations Act. Section 726 does not apply to prior year funds; that is, it is not applicable to funds appropriated prior to FY2006. Section 726 is not permanent law; that is, it does not apply to all fiscal years after FY2006. The restrictions of the section 726, however, will continue to follow and apply to FY2006 funds regardless of the year in which the funds are reserved, obligated or expended.

3. *Certain Projects Categorized as Public Use Projects.* Section 726 categorizes certain projects as serving an otherwise eligible public use and these projects, therefore, are eligible for federal funding even though their development may involve property taken by eminent domain. Section 726 categorizes the following projects as serving a public use: Mass transit, railroad, airport, seaport or highway projects, utility projects which benefit or serve the general public (including energy-related, communication-related, water-related and wastewater-related infrastructure), structures for use by the general public or which have other common-carrier or public-utility functions that serve the general public and are subject to regulation and oversight by the government, and projects that involve the removal of an immediate threat to public health and safety or the removal of brownfields.

4. *Applicability to Eminent Domain Actions.* Section 726 applies to the use of the power of eminent domain after the effective date of the TTHUD FY2006 Appropriations Act, which is November 30, 2005, and only in those cases where funds appropriated under the FY2006 Appropriations Act would, in some nature, be involved in supporting a project that seeks to use the power of eminent domain to acquire real property. This would not include any transfer of title before November 30, 2005, resulting from use of eminent domain authority. It would include any action involving the use of FY2006 funds, on or after November 30, 2005, to initiate condemnation proceedings, permit the continuation of condemnation proceedings (regardless of when they were initiated), or threaten the use of eminent domain, whether or not such action results in a transfer of title.

5. *Self-Implementing Amendment.* HUD considers section 726 to be a "self-implementing" provision. This means that recipients of funds under the TTHUD FY2006 Appropriations Act are expected to comply with the prohibitions of the amendment in the development and execution of activities assisted with HUD FY2006 funds. This Notice is the Department's implementation guidance with respect to section 726 and HUD does not intend to issue any regulations with respect to the provision.

B. Applicability of Section 726 to HUD

1. *Primarily Applicable to HUD's Community Planning and Development Programs, Particularly Community Development Block Grant Program.* Given the very specific and non-economic development activities funded under the majority of HUD programs, the applicability of section 726 will largely impact programs administered by HUD's Office of Community Planning and Development (CPD), particularly, the Community Development Block Grant (CDBG) program. CDBG funds are allocated annually by formula to states and local governments that have eminent domain authority. CDBG, in this context, also encompasses the section 108 loan guarantee program, Brownfields Economic Development Initiative (BEDI), Indian CDBG program, and the Insular Area CDBG program.

Eligible uses of CDBG, as defined in section 105 of the Housing and Community Development Act of 1974, as amended, include:

- Section 105(a)(1) which authorizes the acquisition of real property;
- Section 105(a)(17) which authorizes the provision of CDBG assistance to for-profit entities to carry out an economic development project;
- Section 105(a)(14) which authorizes the provision of assistance to public or private nonprofit entities for activities including acquisition of real property; and acquisition, construction, or installation of commercial or industrial real property improvements;
- Section 105(a)(11) which authorizes relocation payments and assistance; and
- Section 105(a)(15) which authorizes assistance to community-based development organizations carrying out activities including community economic development projects.

Each of these activities may, in some way, involve the exercise of eminent domain authority at the state or local level. CDBG grantees will have to carefully evaluate the facts of any project proposed to receive FY2006 CDBG funds where the exercise of eminent domain is involved. Grantees are encouraged to consult with HUD field staff on any such project. It will also be important for HUD field staff to be conversant with any changes in state or local laws that may impact the use of CDBG funds for property acquisition pursuant to the exercise of eminent domain authority and in support of economic development projects. To ensure proper implementation of section 726, it is critical that HUD and its grantees have a strong dialogue about these situations and develop and apply common sense solutions where CDBG funding and the exercise of eminent domain and economic development intersect.

2. *Low- and Moderate-Income Housing Development Generally Not Economic Development under section 726.* Among the eligible uses of funds under the CDBG program are certain activities that support housing development for low-to moderate-income families. It is generally anticipated that such housing development will not constitute economic development within the meaning of section 726. Therefore, it is anticipated that CDBG funds, as well as HUD's housing assistance programs, could be used to support projects in which the sole use of eminent domain is to acquire land exclusively for the development of housing for low-to moderate-income families. Housing developments, however, that are "mixed use" development may raise section 726 concerns. These concerns are heightened where the amount of retail or commercial space is more than incidental in relation to the amount of housing. However, mixed-used housing developments that involve the exercise of eminent domain, even those with a relatively small amount of retail or commercial space, will require careful evaluation.

3. *Limited Applicability to Other HUD Programs.* Funds appropriated for the majority of HUD programs are appropriated for very specific uses that typically do not involve economic development activities, and, therefore, these funds are not likely to be subject to section 726. For example, annual appropriations for HUD include funding for public housing agencies (PHAs) for tenant-based rental assistance, project-based rental assistance, and to meet capital and operating needs for public housing; for commitments to insure loans under the Federal Housing Administration (FHA); and for expenditures pending the receipt of collections under the Manufactured Housing Fees Trust fund, to name a few.

4. *Permissible Activities to Remove Threats to Public Health and Safety or Remove Brownfields.* As noted in section II.A.3 of this notice, several specific types of projects that are expressly identified in the second proviso of section 726 as public uses for which eminent domain may be used without triggering the funding prohibition. Within this listing of permissible public uses, two provisions warrant the attention of CDBG grantees. The first is the reference to projects for the removal of an immediate threat to public health and safety. The second is the inclusion of projects intended to remove brownfields, as they are defined in the Small Business Liability Relief

and Brownfields Revitalization Act.[2] As CDBG-funded projects are often directed to such purposes, grantees may find that many projects qualify under one or both of these provisions, and are therefore eligible for federal funding.

5. *Staff Salaries and Expenses.* Where a project is determined to be subject to the funding prohibition of section 726, grantees may not use FY2006 funds to pay for staff time expended on the project. This will require grantees to carefully allocate time in accordance with OMB Circular A–87 ("Cost Principles for State, Local, and Indian Tribal Governments").

6. *Program Income.* Any program income generated by the use of CDBG funds appropriated for FY2006 is not covered by the restrictions of section 726.

III. Summary

With the publication of HUD's FY2006 SuperNOFA on March 8, 2006, and with the commencement of allocation of FY2006 funds under HUD's formula programs, grantees of these funds, particularly CDBG grantees, are encouraged to carefully evaluate the facts of any project or activity proposed to receive FY2006 HUD funds where eminent domain acquisition is involved, and to consult with HUD staff, as may be appropriate.

Dated: July 6, 2006.

Keith E. Gottfried,

General Counsel.

[FR Doc. 06–6258 Filed 7–14–06; 8:45 am]

BILLING CODE 4210–67–P

[2] Section 211(a) of the Small Business Liability Relief and Brownfields Revitalization Act established a definition for "brownfield site" (not "brownsfield"). The definition, now codified at 42 U.S.C. 9601(39)(A), states that a brownfield site is "real property, the expansion, redevelopment or reuse of which may be complicated by the presence or potential presence of a hazardous substance, pollutant or contaminant."

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LIST OF PUBLIC LAWS

This is a continuing list of public bills from the current session of Congress which have become Federal laws. It may be used in conjunction with "PLUS" (Public Laws Update Service) on 202–741–6043. This list is also available online at *http://www.archives.gov/federal-register/laws.html.*

The text of laws is not published in the **Federal**

Register but may be ordered in "slip law" (individual pamphlet) form from the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402 (phone, 202–512–1808). The text will also be made available on the Internet from GPO Access at *http://www.gpoaccess.gov/plaws/index.html*. Some laws may not yet be available.

H.R. 889/P.L. 109–241

Coast Guard and Maritime Transportation Act of 2006 (July 11, 2006; 120 Stat. 516)

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CFR CHECKLIST

This checklist, prepared by the Office of the Federal Register, is published weekly. It is arranged in the order of CFR titles, stock numbers, prices, and revision dates.

An asterisk (*) precedes each entry that has been issued since last week and which is now available for sale at the Government Printing Office.

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Title	Stock Number	Price	Revision Date
1	(869-060-00001-4)	5.00	[4]Jan. 1, 2006
2	(869-060-00002-0)	5.00	Jan. 1, 2006
3 (2003 Compilation and Parts 100 and 101)	(869-056-00003-1)	35.00	[1] Jan. 1, 2005
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6	(869-060-00008-9)	10.50	Jan. 1, 2006
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210-299	(869-060-00012-7)	62.00	Jan. 1, 2006
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141-199	(869-060-00057-7)	58.00	Apr. 1, 2006
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Title	Stock Number	Price	Revision Date
29–End	(869–056–00203–3)	47.00	Oct. 1, 2005
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[1] Because Title 3 is an annual compilation, this volume and all previous volumes should be retained as a permanent reference source.

[2] The July 1, 1985 edition of 32 CFR Parts 1–189 contains a note only for Parts 1–39 inclusive. For the full text of the Defense Acquisition Regulations in Parts 1–39, consult the three CFR volumes issued as of July 1, 1984, containing those parts.

[3] The July 1, 1985 edition of 41 CFR Chapters 1–100 contains a note only for Chapters 1 to 49 inclusive. For the full text of procurement regulations in Chapters 1 to 49, consult the eleven CFR volumes issued as of July 1, 1984 containing those chapters.

[4] No amendments to this volume were promulgated during the period January 1, 2005, through January 1, 2006. The CFR volume issued as of January 1, 2005 should be retained.

[5] No amendments to this volume were promulgated during the period April 1, 2000, through April 1, 2006. The CFR volume issued as of April 1, 2000 should be retained.

[6] No amendments to this volume were promulgated during the period April 1, 2005, through April 1, 2006. The CFR volume issued as of April 1, 2004 should be retained.

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