Federal Register

8–30–04 Monday
Vol. 69 No. 167 Aug. 30, 2004

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(ISSN 0097-6326)

Federal Register

8–30–04 Monday
Vol. 69 No. 167 Aug. 30, 2004

Pages 52807–52990

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Contents

Federal Register

Vol. 69, No. 167

Monday, August 30, 2004

Separate Parts In This Issue

Reader Aids
Consult the Reader Aids section at the end of this issue for phone numbers, online resources, finding aids, reminders, and notice of recently enacted public laws.

To subscribe to the Federal Register Table of Contents LISTSERV electronic mailing list, go to http://listserv.access.gpo.gov and select Online mailing list archives, FEDREGTOC-L, Join or leave the list (or change settings); then follow the instructions.

CFR PARTS AFFECTED IN THIS ISSUE

A cumulative list of the parts affected this month can be found in the Reader Aids section at the end of this issue.

3 CFR

Proclamations:
7806 52987

Executive Orders:
13352 52987

Administrative Orders:
Presidential Determinations
No. 2004-42 of August 17, 2004 52807
No. 2004-42 of August 20, 2004 52809

14 CFR
71 52811

Proposed Rules:
71 52839

19 CFR
12 52811
24 52813
111 52813

21 CFR
520 (2 documents) 52814, 52815
558 52816

26 CFR
1 52816
602 52816

31 CFR
356 52967

33 CFR
150 52830

Proposed Rules:
100 52840

40 CFR
52 (2 documents) 52831, 52834
58 52836

Proposed Rules:
58 52842

47 CFR

Proposed Rules:
11 52843

50 CFR
20 52970

Proposed Rules:
648 52847

Federal Register
Vol. 69, No. 167
Monday, August 30, 2004

Presidential Documents

Title 3—

The President

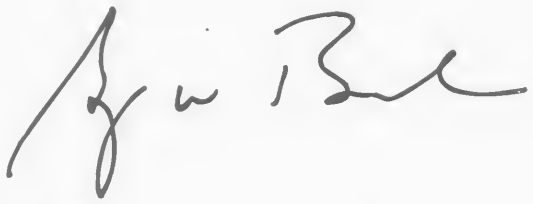
Presidential Determination No. 2004–42 of August 17, 2004

Continuation of U.S. Drug Interdiction Assistance to the Government of Colombia

Memorandum for the Secretary of State [and] the Secretary of Defense

Pursuant to the authority vested in me by section 1012 of the National Defense Authorization Act for Fiscal Year 1995, as amended (22 U.S.C. 2291–4), I hereby certify, with respect to Colombia, that: (1) interdiction of aircraft reasonably suspected to be primarily engaged in illicit drug trafficking in that country's airspace is necessary because of the extraordinary threat posed by illicit drug trafficking to the national security of that country; and (2) that country has appropriate procedures in place to protect against innocent loss of life in the air and on the ground in connection with such interdiction, which shall at a minimum include effective means to identify and warn an aircraft before the use of force is directed against the aircraft.

The Secretary of State is authorized and directed to publish this determination in the **Federal Register** and to notify the Congress of this determination.



THE WHITE HOUSE,
Washington, August 17, 2004.

[FR Doc. 04–19857
Filed 8–27–04; 8:45 am]
Billing code 4710–10–P

Presidential Documents

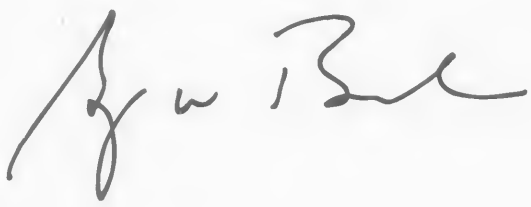
Presidential Determination No. 2004–43 of August 20, 2004

Determination to Make Available Assistance for Liberia

Memorandum for the Secretary of State[,] the Secretary of Defense[,] the Secretary of the Treasury[, and] the Administrator, United States Agency for International Development

Consistent with the authority vested in me under the Act Making Emergency Supplemental Appropriations for Defense and for the Reconstruction of Iraq and Afghanistan, 2004 (Public Law 108–106), under the heading "International Disaster and Famine Assistance," I hereby determine that it is in the national interest and essential to efforts to reduce international terrorism to furnish $86 million in assistance for Liberia from funds made available under that heading.

The Secretary of State is authorized and directed to report this determination to the Congress and to arrange for its publication in the **Federal Register**.



THE WHITE HOUSE,
Washington, August 20, 2004.

[FR Doc. 04–19858
Filed 8–27–04; 8:45 am]
Billing code 4710–10–P

Rules and Regulations

Federal Register
Vol. 69, No. 167
Monday, August 30, 2004

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2004–18014; Airspace Docket No. 04–ACE–43]

Modification of Class E Airspace; Fairbury, NE

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Direct final rule; confirmation of effective date.

SUMMARY: This document confirms the effective date of the direct final rule which revises Class E airspace at Fairbury, NE.

EFFECTIVE DATE: 0901 UTC, September 30, 2004.

FOR FURTHER INFORMATION CONTACT: Brenda Mumper, Air Traffic Division, Airspace Branch, ACE–520A, DOT Regional Headquarters Building, Federal Aviation Administration, 901 Locust, Kansas City, MO 64106; telephone: (816) 329–2524.

SUPPLEMENTARY INFORMATION: The FAA published this direct final rule with a request for comments in the **Federal Register** on July 15, 2004 (69 FR 42331). The FAA uses the direct final rulemaking procedure for a non-controversial rule where the FAA believes that there will be no adverse public comment. This direct final rule advised the public that no adverse comments were anticipated, and that unless a written adverse comment, or a written notice of intent to submit such an adverse comment, were received within the comment period, the regulation would become effective on September 30, 2004. No adverse comments were received, and thus this notice confirms that this direct final rule will become effective on that date.

Issued in Kansas City, MO on August 18, 2004.

Paul J. Sheridan,

Acting Manager, Air Traffic Division, Central Region.

[FR Doc. 04–19735 Filed 8–27–04; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF HOMELAND SECURITY

Bureau of Customs and Border Protection

19 CFR Parts 12 and 24

[CBP Decision 04–29]

RIN 1651–AA36

Patent Surveys

AGENCY: Customs and Border Protection, Department of Homeland Security.

ACTION: Final rule.

SUMMARY: This document amends the Customs and Border Protection (CBP) Regulations to eliminate patent surveys. The change is made based on a lack of demand for the program due to diminishing effectiveness within the current statutory scheme and other changed circumstances. CBP will continue to enforce the law and regulations it is responsible for enforcing regarding the importation of patented merchandise registered with CBP, and importers and others may continue to avail themselves of the procedures administered by the International Trade Commission regarding the importation of patent-infringing merchandise.

DATES: Effective September 29, 2004.

FOR FURTHER INFORMATION CONTACT: George Frederick McCray, Chief, Intellectual Property Rights Branch (202) 572–8710.

SUPPLEMENTARY INFORMATION:

Background

On March 20, 2003, the U.S. Customs Service (Customs) published a notice of proposed rulemaking (NPRM) in the **Federal Register** (68 FR 13636) proposing to amend the Customs Regulations (19 CFR Chapter I) to eliminate patent surveys. The NPRM explained that patent surveys are conducted by CBP to assist registered patent owners in pursuing enforcement actions by the International Trade Commission (ITC) under section 337 of the Tariff Act of 1930, as amended (19 U.S.C. 1337; hereafter, section 1337), pertaining to unfair practices in import trade.

It is noted that Customs was made a component of the Department of Homeland Security and is now known as U.S. Customs and Border Protection (CBP). While this document is being issued by CBP, the agency is sometimes referred to as Customs in this document to reflect historical accuracy.

The Statute

Under section 1337, it is unlawful to, among other things, import merchandise into the United States that infringes a valid and enforceable United States patent. Under the statute, the ITC, after conducting a proper investigation, is authorized to exclude patent-infringing merchandise from entry into the United States. (19 U.S.C. 1337(a)(1)(B)(i) and 19 U.S.C. 1337(d).) The statute also authorizes the ITC, under certain circumstances, to issue cease and desist orders, impose civil penalties, and order seizure and forfeiture relative to unlawful acts under the statute.

CBP plays a supporting role with respect to patent infringement cases under section 1337. Where the ITC has determined that merchandise infringes a patent and has ordered that the patent-infringing merchandise be excluded from entry, CBP will refuse entry of the merchandise covered by the order after notification by the ITC (see 19 CFR 12.39). In addition to enforcing ITC exclusion orders, CBP enforces ITC seizure/forfeiture orders (19 U.S.C. 1337(i)(2)) and certain court orders.

Patent Surveys

In 1956, while under no statutory mandate to do so, Customs promulgated a regulation designed to assist patent holders in obtaining information they would need to seek action by the ITC under section 1337. In Treasury Decision (T.D.) 54087, published in the **Federal Register** (21 FR 3267) on May 18, 1956, Customs amended § 24.12(a) of the Customs Regulations by adding paragraph (3), under which Customs would issue the names and addresses of importers of articles appearing to infringe a registered patent. The T.D. explained that the purpose of the new provision was to assist the owner of a registered patent in obtaining data upon

which to file a complaint with the ITC under section 1337 charging unfair methods of competition and unfair acts in the importation of merchandise infringing the patent. The provision required an application by the patent owner and set forth appropriate fees.

In T.D. 56137, published in the **Federal Register** (29 FR 4909) on April 8, 1964, Customs amended part 12 of the regulations to add new § 12.39a to prescribe the procedure and requirements for obtaining the names and addresses of importers of merchandise appearing to infringe a patent (thereby transferring authority for the procedure from § 24.12(a)(3)). The new section referred to the procedure as a patent survey and provided patent survey requestors three survey periods varying in length of time: 2, 4, and 6 months. The fees for patent surveys remained under § 24.12(a)(3).

Changed Circumstances

In 1956, when the patent survey program was introduced, Customs processed just over a million entries. Since then, the volume of entries has increased dramatically, and CBP now receives over 23 million entries per year (based on 2001 statistics). At the same time, as a result of changes in applicable law and practice, the old system under which Customs officers were responsible for completing the processing of each entry has been replaced with what, in practice, is a self-assessment system based on electronic reporting without paper invoices. These changed circumstances have severely impacted the ability of CBP to adequately administer the patent survey program, resulting in CBP's reconsideration of the program's viability.

Effectiveness of the Patent Survey Program

In addition, the effectiveness of the program has been challenged. The patent survey seeks to identify importers who may be importing merchandise that appears to infringe a patent. After initial approval of a survey request (application), CBP determines which tariff provisions may apply to particular patented merchandise, a task complicated by the fact that patented articles are often new or novel commodities. Often, these identified tariff provisions are broad or basket provisions, with the broad provisions covering several similar articles and the basket provisions covering a wide breadth of articles that do not fit under more specific subheadings. Thus, searching for importers of merchandise appearing to infringe the patent often produces over-broad results which lead to the identification of importers who in fact do not import merchandise appearing to infringe the patent at issue. These searches are of questionable value to the patent owner and do not produce results that justify the use of CBP resources.

Value of the Program

Further evidence of the limited value of the patent survey program is demonstrated by the fact that CBP processes relatively few patent survey requests per year (research indicates approximately 10 requests processed per year). The few number of survey requests received call into question the value of the program. A greater number of survey requests might suggest a greater need among the importing public and a more legitimate basis for CBP's investment of time and resources. Also, no comments were received in response to the proposed rule, requesting retention of the program. The apparent lack of need, and interest, is another reason to discontinue the program.

Absence of Statutory Mandate

Finally, CBP notes that section 1337 does not mandate that CBP perform patent surveys. An examination of the general scheme of section 1337 shows that the statute places primary authority in the ITC, rather than CBP, to enforce its provisions. The ITC is charged with the responsibility to conduct investigations and make determinations regarding violations and sanctions under the statute. In the context of section 1337, CBP is not authorized to take any action regarding apparently patent-infringing merchandise without the ITC first taking action or without receiving a notice, request, or instruction from the ITC, a clearly secondary role.

Thus, the promulgation of the patent survey regulation (first in § 24.12(a)(3) and then in § 12.39a), though intended to support section 1337, is not rooted in explicit statutory authority. Rather, the regulatory program was initiated in the exercise of agency discretion under the general authority of 19 U.S.C. 1624. As a discretionary program, CBP is not compelled by law to continue performing patent surveys, especially when their value appears to have diminished, resources are scarce, and the agency is faced with elevated national security priorities.

Comments

The comment period ended on May 21, 2003. No comments were received.

Conclusion

In the NPRM, Customs examined the options of discontinuing the program or expending scarce resources to make the program more effective. After careful consideration, CBP has determined that committing additional resources to the program would be difficult, given current enforcement and security priorities, and raising fees to cover the cost of patent surveys would likely reduce participation even more. For these reasons, in addition to the lack of interest in the program, lack of comments (received in response to the proposed rule) requesting continuation of the program, and the above mentioned concerns relating to ambiguous legal authority, CBP is amending the regulations to discontinue the patent survey program. Thus, this document removes § 12.39a from the CBP Regulations and makes conforming changes to § 24.12(a) by removing paragraph (3).

This amendment to the regulations is being issued in accordance with § 0.1(b)(1) of the CBP Regulations (19 CFR 0.1(b)(1)) pertaining to the authority of the Secretary of Homeland Security (or his/her delegate) to prescribe and approve regulations relating to customs revenue functions that are not set forth in paragraph 1(a)(i) of Treasury Department Order No. 100–16 (May 15, 2003) (see CBP Decision 03–24, 68 FR 51868, August 28, 2003).

Regulatory Flexibility Act

Under 19 U.S.C. 1337 (section 1337), the ITC, after conducting a proper investigation, is authorized to exclude patent-infringing merchandise from entry into the United States. (19 U.S.C. 1337(a)(1)(B)(i) and 19 U.S.C. 1337(d).) CBP plays a supporting role with respect to patent infringement cases under section 1337. Where the ITC has determined that merchandise infringes a patent and has ordered that the patent-infringing merchandise be excluded from entry, CBP will refuse entry of the merchandise covered by the order after notification by the ITC (see 19 CFR 12.39). Neither ITC nor CBP is required to conduct patent surveys under the statute. They are not necessary to ITC investigations or enforcement action or to the fulfillment of CBP's responsibilites under the statute.

As set forth in the preamble, CBP receives very few patent survey requests under the regulations; the figure is approximately 10 per year. No comments were received in response to the proposed rule requesting retention of the program. In addition, most surveys do not produce beneficial

results, and the beneficial results that are produced are of limited value. Thus, pursuant to the provisions of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), it is certified that the amendments to the CBP Regulations set forth in this document will not have a significant economic impact on a substantial number of small entities. The regulation would merely discontinue the patent survey procedure for reasons related to changed circumstances, disuse, and ineffectiveness. Accordingly, these amendments are not subject to the regulatory analysis or other requirements of 5 U.S.C. 603 and 604.

Executive Order 12866

Since CBP receives so few requests for patent surveys, and elimination of the program will not preclude a patent owner from petitioning the ITC for an investigation and action to enforce its patent, CBP concludes that this rule does not meet the criteria for a "significant regulatory action" as specified in E.O. 12866. The rule will not 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. Because patent surveys are not an essential element of the ITC enforcement process, elimination of the program in this final rule does not create serious inconsistency or otherwise interfere with an action taken or planned by another agency. It is noted that no comments were received, indicating little if any concern by patent owners that access to ITC enforcement will be curtailed or the ITC's procedures will be affected by the final rule. Also, the rule does not materially alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients thereof, as patent surveys have nothing to do with any of these matters; nor does the rule raise novel legal policy issues arising out of legal mandates, the President's priorities, or the principles set forth in E.O. 12866.

Drafting Information

The principal author of this document was Bill Conrad, Office of Regulations and Rulings, Customs and Border Protection. However, personnel from other offices contributed in its development.

List of Subjects

19 CFR Part 12

Entry of merchandise, Customs duties and inspection, Fees assessment, Imports, Patents, Reporting and recordkeeping requirements.

19 CFR Part 24

Accounting, Customs duties and inspection, Fees, Imports, Reporting and recordkeeping requirements.

Amendments to the Regulations

■ For the reasons stated in the preamble, parts 12 and 24 of the Customs Regulations (19 CFR parts 12 and 24) are amended as follows:

PART 12—SPECIAL CLASSES OF MERCHANDISE

■ 1. The general authority citation for part 12 continues to read as follows:

Authority: 5 U.S.C. 301; 19 U.S.C. 66; 1202 (General Note 23, Harmonized Tariff Schedule of the United States), 1624.

* * * * *

§ 12.39a [Removed]

■ 2. Part 12 of the CBP Regulations is amended by removing § 12.39a.

PART 24—CUSTOMS FINANCIAL AND ACCOUNTING PROCEDURE

■ 3. The general authority citation for part 24 continues to read as follows:

Authority: 5 U.S.C. 301; 19 U.S.C. 58a–58c, 66, 1202 (General Note 23, Harmonized Tariff Schedule of the United States), 1505, 1624; 26 U.S.C. 4461, 4462; 31 U.S.C. 9701.

* * * * *

Section 24.12 also issued under 19 U.S.C. 1524, 46 U.S.C. 31302;

* * * * *

§ 24.12 [Amended]

■ 4. Section 24.12 of the CBP Regulations is amended by removing paragraph (a)(3).

Dated: August 24, 2004.

Robert C. Bonner,

Commissioner, Customs and Border Protection.

[FR Doc. 04–19665 Filed 8–27–04; 8:45 am]

BILLING CODE 4820–02–P

DEPARTMENT OF HOMELAND SECURITY

Bureau of Customs and Border Protection

19 CFR Part 111

[C.B.P. Dec. No. 04–30]

RIN 1651–AA46

Customs Broker License Examination Dates

AGENCY: Customs and Border Protection, Department of Homeland Security.

ACTION: Final rule.

SUMMARY: This document adopts as a final rule the interim rule amending the Customs and Border Protection (CBP) regulations to allow CBP to publish a notice changing the date on which a semi-annual written examination for an individual broker's license will be held when the normal date conflicts with a holiday, religious observance, or other scheduled event.

EFFECTIVE DATE: August 30, 2004

FOR FURTHER INFORMATION CONTACT: Alice Buchanan, Office of Field Operations (202–344–2673).

SUPPLEMENTARY INFORMATION:

Background

Section 641 of the Tariff Act of 1930, as amended (19 U.S.C. 1641), provides that a person (an individual, corporation, association, or partnership) must hold a valid customs broker's license and permit in order to transact customs business on behalf of others, sets forth standards for the issuance of broker's licenses and permits, and provides for the taking of disciplinary action against brokers that have engaged in specified types of infractions. In the case of an applicant for an individual broker's license, section 641 provides that the Secretary of the Treasury may conduct an examination to determine the applicant's qualifications for a license. Section 641 also authorizes the Secretary of the Treasury to prescribe rules and regulations relating to the customs business of brokers as may be necessary to protect importers and the revenue of the United States and to carry out the provisions of section 641.

Pursuant to the Homeland Security Act of 2002 (Pub. L. 107–296) and Treasury Order No. 100–16, the Secretary of the Department of Homeland Security now has the authority to prescribe the rules and regulations relating to Customs brokers.

The regulations issued under the authority of section 641 are set forth in part 111 of the Customs and Border

Protection (CBP) Regulations (19 CFR part 111). Part 111 includes detailed rules regarding the licensing of, and granting of permits to, persons desiring to transact customs business as customs brokers, including the qualifications required of applicants and the procedures for applying for licenses and permits. Section 111.11 sets forth the basic requirements for a broker's license and, in paragraph (a)(4), provides that an applicant for an individual broker's license must attain a passing grade on a written examination taken within the 3-year period before submission of the license application prescribed under § 111.12.

Section 111.13 sets forth the requirements and procedures for the written examination for an individual broker's license. Paragraph (b) of § 111.13 concerns the date and place of the examination and, in the first sentence, provides that "[w]ritten examinations will be given on the first Monday in April and October."

On May 29, 2003, CBP published in the **Federal Register** (68 FR 31976) as T.D. 03–23 , an interim rule adding a provision that would allow CBP to publish a notice changing the date on which a semi-annual written examination for an individual broker's license will be held when the normal date conflicts with a holiday, religious observance, or other scheduled event. In the interim rule, CBP noted that the first Monday in October 2003, that is, October 6th, coincided with the observance of Yom Kippur, and CBP noted that the regulatory text quoted above did not provide for the adoption of alternative examination dates. In order to avoid conflicts with national holidays, religious observances, and other foreseeable events that could limit an individual's opportunity to take the broker's examination, T.D. 03–23 amended § 111.13(b) to provide CBP with some flexibility in those circumstances as regards the determination of the specific date on which an examination will be given. The interim rule requested comments, and those that were received are discussed below.

Discussion of Comments

Two commenters responded to the solicitation of public comment, and both requested that the regulation include a statement as to when the rescheduled examination will occur. Specifically, one commenter requested that the rescheduled examination date be no more than five business days (or one calendar week) later than the first Monday in April or the first Monday in October. The other commenter requested that we standardize the manner in which the rescheduled date will be determined, but did not request any specific time frame for the rescheduled date.

CBP believes that it is not necessary to include in the regulation a statement as to exactly when the rescheduled examination would occur. While CBP does not intend to schedule an examination later than one week after the first Monday in April or October, CBP believes that it would not be wise to standardize the rescheduled date(s) because CBP contracts the administration of the examinations to the Office of Personnel Management (OPM). Standardization as to when an examination would be rescheduled could unduly constrain CBP and OPM to what may become ill-timed or unavailable dates.

Conclusion

After analysis of the comments and further review of the matter, CBP has determined to adopt as a final rule, with no changes, the interim rule published in the **Federal Register** (68 FR 31976) on May 29. 2003, as T.D. 03–23.

Signing Authority

This final rule is being issued in accordance with 19 CFR 0.1(b)(1) of the CBP Regulations.

Inapplicability of Notice and Delayed Effective Date Requirements and the Regulatory Flexibility Act

Because this regulation finalizes an interim rule already in effect that provides a benefit to prospective applicants for individual customs broker licenses and imposes no new regulatory burden or obligation on any member of the general public, CBP finds that, pursuant to the provisions of 5 U.S.C. 553(d)(1) and (3), there is good cause for dispensing with a delayed effective date. Because no notice of proposed rulemaking is required for interim regulations, the provisions of the Regulatory Flexibility Act (5 U.S.C. 601, *et seq.*) do not impose restrictions on the publication of this regulation.

Executive Order 12866

This document does not meet the criteria for a "significant regulatory action" as specified in E.O. 12866.

Drafting Information

The principal author of this document was Dwayne S. Rawlings, Office of Regulations and Rulings, Bureau of Customs and Border Protection.

List of Subjects in 19 CFR Part 111

Administrative practice and procedure, Brokers, Customs duties and inspection, Imports, Licensing, Reporting and recordkeeping requirements.

Amendment to the Regulations

■ For the reasons set forth above, the interim rule amending § 111.13 of Title 19 of the Code of Federal Regulations (19 CFR part 111.13), which was published in the **Federal Register** (68 FR 31976) on May 29, 2003, as T.D. 03–23, is adopted as a final rule without change.

Dated: August 24, 2004.

Robert C. Bonner,

Commissioner, Customs and Border Protection.

[FR Doc. 04–19664 Filed 8–27–04; 8:45 am]

BILLING CODE 4820–02–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 520

Oral Dosage Form New Animal Drugs; Cefpodoxime Proxetil Tablets

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the animal drug regulations to reflect approval of a new animal drug application (NADA) filed by Pharmacia and Upjohn Co. The NADA provides for veterinary prescription use of cefpodoxime proxetil tablets in dogs for treatment of skin infections (wounds and abscesses) caused by susceptible strains of certain bacteria.

DATES: This rule is effective August 30, 2004.

FOR FURTHER INFORMATION CONTACT: Melanie R. Berson, Center for Veterinary Medicine (HFV–110), Food and Drug Administration, 7500 Standish Pl., Rockville, MD 20855, 301–827–7540, e-mail: *melanie.berson@fda.gov.*

SUPPLEMENTARY INFORMATION: Pharmacia and Upjohn Co., 7000 Portage Rd., Kalamazoo, MI 49001–0199, filed NADA 141–232 for use of SIMPLICEF (cefpodoxime proxetil) Tablets. The NADA provides for veterinary prescription use of cefpodoxime proxetil tablets in dogs for treatment of skin infections (wounds and abscesses) caused by susceptible strains of *Staphylococcus intermedius, S. aureus, Streptococcus canis* (group G, β-

hemolytic), *Escherichia coli*, *Pasteurella multocida*, and *Proteus mirabilis*. The NADA is approved as of July 22, 2004, and the regulations are amended in part 520 (21 CFR part 520) by adding § 520.370 to reflect the approval. The basis of approval is discussed in the freedom of information summary.

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

Under section 512(c)(2)(F)(i) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360b(c)(2)(F)(i)), this approval qualifies for 5 years of marketing exclusivity beginning July 22, 2004.

FDA has determined under 21 CFR 25.33(d)(1) that this actions is of a type that does not individually or cumulatively have a significant effect on the human environment. Therefore, neither an environmental assessment nor environmental impact statement is required.

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

List of Subjects in 21 CFR Part 520

Animal drugs.

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

PART 520—ORAL DOSAGE FORM NEW ANIMAL DRUGS

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

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

■ 2. Section 520.370 is added to read as follows:

§ 520.370 Cefpodoxime tablets.

(a) *Specifications.* Each tablet contains cefpodoxime proxetil equivalent to 100 or 200 milligrams (mg) cefpodoxime.

(b) *Sponsors.* See No. 000009 in § 510.600(c) of this chapter.

(c) *Conditions of use in dogs*—(1) *Amount.* 5 to 10 mg per kilogram (2.3 to 4.5 mg per pound) body weight daily for 5 to 7 days, or for 2 to 3 days beyond the cessation of clinical signs, up to a maximum of 28 days.

(2) *Indications for use.* For the treatment of skin infections (wounds and abscesses) caused by susceptible strains of *Staphylococcus intermedius*, *S. aureus*, *Streptococcus canis* (group G, β-hemolytic), *Escherichia coli*, *Pasteurella multocida*, and *Proteus mirabilis*.

(3) *Limitations.* Federal law restricts this drug to use by or on the order of a licensed veterinarian.

Dated: August 17, 2004.

Stephen F. Sundlof,

Director, Center for Veterinary Medicine.

[FR Doc. 04–19654 Filed 8–27–04; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 520

Oral Dosage Form New Animal Drugs; Spectinomycin Dihydrochloride Oral Solution

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the animal drug regulations to reflect approval of an abbreviated new animal drug application (ANADA) filed by Cross Vetpharm Group Ltd. The ANADA provides for the oral use of spectinomycin dihydrochloride pentahydrate oral solution in pigs under 4 weeks of age for the treatment and control of infectious bacterial enteritis.

DATES: This rule is effective August 30, 2004.

FOR FURTHER INFORMATION CONTACT: Lonnie W. Luther, Center for Veterinary Medicine (HFV–104), Food and Drug Administration, 7519 Standish Pl., Rockville, MD 20855, 301–827–8549, e-mail: *lonnie.luther@fda.gov*.

SUPPLEMENTARY INFORMATION: Cross Vetpharm Group Ltd., Broomhill Rd., Tallaght, Dublin 24, Ireland, filed ANADA 200–364 that provides for oral use of SPECMED (spectinomycin dihydrochloride pentahydrate) Scour-Chek in pigs under 4 weeks of age for the treatment and control of infectious bacterial enteritis (white scours) associated with *Escherichia coli*. Cross Vetpharm Group Ltd.'s SPECMED Scour-Chek is approved as a generic copy of Phoenix Scientific, Inc.'s SPECTAM Scour Halt, approved under NADA 033–157. The ANADA is approved as of July 29, 2004, and the regulations are amended by removing 21 CFR 520.2122 and by adding 21 CFR 520.2123c to reflect the approval. The basis of approval is discussed in the freedom of information summary.

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

The agency has determined under 21 CFR 25.33(a)(1) that this action is of a type that does not individually or cumulatively have a significant effect on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

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

List of Subject in 21 CFR Part 520

Animal drugs.

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

PART 520—ORAL DOSAGE FORM NEW ANIMAL DRUGS

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

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

§ 520.2122 [Removed]

■ 2. Section 520.2122 is removed.

■ 3. Section 520.2123c is added to read as follows:

§ 520.2123c Spectinomycin dihydrochloride pentahydrate solution.

(a) *Specifications.* Each milliliter of solution contains 50 milligrams (mg) spectinomycin activity.

(b) *Sponsors.* See Nos. 000856, 059130, and 061623 in § 510.600(c) of this chapter.

(c) *Conditions of use in swine*—(1) *Amount.* Administer 5 mg per pound (lb) of body weight orally twice daily for 3 to 5 days.

(2) *Indications for use.* For the treatment and control of infectious bacterial enteritis (white scours) associated with *E. coli* in pigs under 4 weeks of age.

(3) *Limitations.* Do not administer to pigs over 15 lb of body weight or over 4 weeks of age. Do not administer within 21 days of slaughter.

Dated: August 17, 2004.

Stephen F. Sundlof,

Director, Center for Veterinary Medicine.

[FR Doc. 04–19655 Filed 8–27–04; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 558

New Animal Drugs For Use in Animal Feeds; Decoquinate

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the animal drug regulations to reflect approval of a supplemental new animal drug application (NADA) filed by Alpharma Inc. The supplemental NADA provides for the use of single-ingredient decoquinate and monensin Type A medicated articles to make two-way Type B and Type C medicated feeds for cattle at a broader range of concentrations.

DATES: This rule is effective August 30, 2004.

FOR FURTHER INFORMATION CONTACT: Janis R. Messenheimer, Center for Veterinary Medicine (HFV–135), Food and Drug Administration, 7500 Standish Pl., Rockville, MD 20855, 301–827–7578, e-mail: *janis.messenheimer@fda.gov.*

SUPPLEMENTARY INFORMATION: Alpharma Inc., One Executive Drive, P.O. Box 1399, Fort Lee, NJ 07024, filed a supplement to NADA 141–148 for use of DECCOX (decoquinate) and RUMENSIN (monensin sodium) Type A medicated articles to make two-way Type B and Type C medicated feeds for cattle at the broader range of concentrations. The supplemental application is approved as of July 30, 2004, and the regulations are amended in 21 CFR 558.195 to reflect the approval. The basis of approval is discussed in the freedom of information summary.

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

The agency has determined under 21 CFR 25.33(a)(1) that this action is of a type that does not individually or cumulatively have a significant effect on the human environment. Therefore, neither an environmental assessment nor environmental impact statement is required.

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

List of Subjects in 21 CFR Part 558

Animal drugs, Animal feeds.

■ Therefore, under the Federal Food, Drug, and Cosmetic Act and under the authority delegated to the Commissioner of Food and Drugs and redelegated to the Center for Veterinary Medicine, 21 CFR part 558 is amended as follows:

PART 558—NEW ANIMAL DRUGS FOR USE IN ANIMAL FEEDS

■ 1. The authority citation for 21 CFR part 558 continues to read as follows:

Authority: 21 U.S.C. 360b, 371.

§ 558.195 [Amended]

■ 2. Section 558.195 *Decoquinate* is amended in paragraph (e)(2)(iv) in the table in the "Decoquinate in grams/ton" column by removing "13.6 to 27.2" and by adding in its place "12.9 to 90.8"; and in the "Limitations" column after the fourth sentence by adding "Do not feed to lactating dairy cattle."

Dated: August 18, 2004.

Steven D. Vaughn,

Director, Office of New Animal Drug Evaluation, Center for Veterinary Medicine.

[FR Doc. 04–19696 Filed 8–27–04; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Parts 1 and 602

[TD 9157]

RIN 1545–AW33

Guidance Regarding the Treatment of Certain Contingent Payment Debt Instruments With One or More Payments That Are Denominated in, or Determined by Reference to, a Nonfunctional Currency

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Final regulation.

SUMMARY: This document contains final regulations regarding the treatment of contingent payment debt instruments for which one or more payments are denominated in, or determined by reference to, a currency other than the taxpayer's functional currency. These regulations are necessary because current regulations do not provide guidance concerning the tax treatment of such instruments. The regulations affect issuers and holders of such instruments.

DATES: *Effective Date:* These regulations are effective August 30, 2004.

Applicability date: These regulations apply to debt instruments issued on or after October 29, 2004.

FOR FURTHER INFORMATION CONTACT: Milton Cahn, (202) 622–3860 (not a toll free number).

SUPPLEMENTARY INFORMATION:

Paperwork Reduction Act

The collections of information contained in these final regulations have been reviewed and approved by the Office of Management and Budget in accordance with the Paperwork Reduction Act (44 U.S.C. 3507) under control number 1545–1831. Responses to these collections of information are mandatory.

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 control number assigned by the Office of Management and Budget.

The estimated annual burden per [respondent/recordkeeper] varies from 48 minutes to 1 hour 12 minutes, depending on individual circumstances, with an estimated average of 1 hour.

Comments concerning the accuracy of this burden estimate and suggestions for reducing this burden should be sent to the Internal Revenue Service, Attn: IRS

Reports Clearance Officer, SE:W:CAR:MP:T:T:SP Washington, DC 20224, and to the Office of Management and Budget, Attn: Desk Officer for the Department of the Treasury, Office of Information and Regulatory Affairs, Washington, DC 20503.

Books or records relating to this 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.

Background

This document contains amendments to 26 CFR part 1. On August 29, 2003, a notice of proposed rulemaking (REG–106486–98) relating to the taxation of nonfunctional currency denominated contingent payment debt instruments was published in the **Federal Register** (68 FR 51944). No public hearing was requested or held. One written comment responding to the notice of proposed rulemaking was received. After consideration of this comment, the proposed regulations are adopted as amended by this Treasury decision. The revisions are discussed below.

Summary of Comments

Treasury and the IRS received one comment letter in response to the notice of proposed rulemaking. The issues raised in that comment letter are addressed below.

1. Exceptions Described in § 1.1275–4(a)(2)

The comment letter notes that in describing instruments subject to § 1.988–6 by reference to § 1.1275–4(b)(1), it was unclear whether the exceptions set forth in § 1.1275–4(a)(2) applied to instruments described in § 1.988–6(a)(1).

It was intended to be implicit from the reference to § 1.1275–4(b)(1) that debt instruments excluded from the application of § 1.1275–4 by reason of § 1.1275–4(a)(2) (other than by reason of being subject to section 988) are similarly excluded from § 1.988–6. Nevertheless, the final regulations have been revised to make explicit that § 1.988–6 applies only to debt instruments to which § 1.1275–4 would otherwise apply (not taking into account the exclusion for debt instruments that are subject to section 988).

2. Multicurrency Debt Instruments With Related Hedges

The comment letter expresses concern that it may be possible to structure arrangements to avoid the original issue discount (OID) rules using a multicurrency debt instrument that has a nonfunctional currency as the predominant currency and partial hedges of that instrument. That is, it may be possible to closely replicate the economic attributes of a dollar denominated instrument with OID through a combination of a multicurrency instrument without OID and a partial hedge of that instrument. The comment letter suggests that § 1.988–5(a) would not apply in such a case, because the hedge would not be a complete hedge of all payments.

Treasury and the IRS believe that an anti-abuse rule is appropriate to prevent the potential abuse described above. Accordingly, an anti-abuse rule applicable to debt instruments subject to section 988 is included in § 1.988–2(b)(18). This anti-abuse rule is patterned after the anti-abuse rule contained in § 1.1275–2(g) and permits the Commissioner to apply or depart from the applicable regulations as necessary or appropriate to achieve a reasonable result. No inference is intended as to how the Commissioner may apply the anti-abuse rule contained in § 1.1275–2(g) to nonfunctional currency denominated debt instruments.

In addition, Treasury and the IRS believe that § 1.988–2(f) may be applied in the situation described. Furthermore, Treasury and the IRS note that under § 1.988–5(a)(8)(iii) the Commissioner can integrate a foreign currency denominated debt instrument with a partial hedge of that instrument.

3. Multicurrency Debt Instrument—Determination of Predominant Currency

The comment letter proposes the use of a special anti-abuse rule in the case where the net present value of all payments in, or determined with respect to, the predominant currency of a multicurrency instrument does not exceed 50 percent of the present value of all payments. The letter requests that, in such a case, the comparable yield be determined on a synthetic basis by reference to the weighted average of the comparable yields in each component currency rather than by reference to the predominant currency. There are two stated rationales for this request. First, the holder could avoid accrual of OID if a multicurrency contingent payment debt instrument's predominant currency is a currency with a low interest rate and the other currencies in which payments are denominated or with respect to which payments are determined are highly inflationary currencies (but not hyperinflationary currencies). Second, if the predominant low interest rate currency in such an instrument is the U.S. dollar and the issuer is foreign, a holder's gain upon disposition of the instrument would be characterized as foreign source interest income rather than as U.S. source foreign currency gain.

Treasury and the IRS agree that the letter has identified an issue to be addressed. However, Treasury and the IRS believe the proposed solution of creating a synthetic yield (and presumably a synthetic currency to measure currency gain or loss) is overly complex and would be difficult to administer. Instead, Treasury and the IRS have added a special rule that applies if there is no single currency for which the net present value in functional currency of all payments denominated in, or determined by reference to, that currency is greater than 50 percent of the total value of all payments. In such a case, if the discount rate attributable to the currency that would otherwise be the predominant currency differs by 10 percentage points or more from the discount rate attributable to any other currency in which payments are denominated or with respect to which payments are determined, the Commissioner can determine the predominant currency under any reasonable method.

4. Integrated Debt Instruments

The comment letter requests clarification that § 1.988–6 does not apply to transactions that are composed of a nonfunctional currency contingent payment debt instrument (or a multicurrency debt instrument) and a qualified hedge and that are subject to the integration rules of § 1.988–5. Treasury and the IRS believe that the proposed regulations are clear on this point, because § 1.988–5(a)(5)(i) provides that a taxpayer may treat a debt instrument and a hedge as an integrated economic transaction only if, among other things, all the contingent features of an instrument are fully hedged such that the synthetic debt instrument resulting from integration is not a contingent payment instrument. Accordingly, no change has been made in the final regulations regarding this issue.

5. Alternative Payment Schedule and Fixed Yield Rules

Section 1.1275–4(a)(2)(iii) provides that the contingent payment debt instrument rules in § 1.1275–4 do not apply to a debt instrument subject to § 1.1272–1(c) (a debt instrument that provides for certain alternative payment schedules) or § 1.1272–1(d) (a debt instrument that provides for a fixed

yield). The comment letter requests that the final regulations clarify that, for purposes of applying §§ 1.1272–1(c) and 1.1272–1(d) to a nonfunctional currency denominated debt instrument, the yield of the instrument be determined in the instrument's denomination currency, rather than in the taxpayer's functional currency. Treasury and the IRS believe that it is clear under § 1.988–2(b)(2)(ii)(A) (determinations regarding OID in a nonfunctional currency denominated debt instrument are made in the currency of the debt instrument) that these provisions are applied by using the debt instrument's denomination currency. Accordingly, no change has been made in the final regulations regarding this issue.

6. Predominant Currency of a Multicurrency Debt Instrument Is the Same as the Taxpayer's Functional Currency

The comment letter requests that the final regulations clarify that if the predominant currency of a multicurrency debt instrument is the taxpayer's functional currency, then section 988 does not apply to that instrument. Treasury and the IRS believe that § 1.988–6(d)(4) of the proposed regulations is clear on this point. Accordingly, no further clarification is made in the final regulations.

7. Other Regulatory Provisions

The comment letter requests that the final regulations clarify that debt instruments subject to § 1.988–6 be treated for purposes of other regulations as if they were subject to § 1.1275–4. Section 1.988–6 provides that the rules of § 1.1275–4 apply to debt instruments subject to § 1.988–6, except as otherwise provided in § 1.988–6. Accordingly, a reference to a debt instrument subject to § 1.1275–4 will also refer to a debt instrument subject to § 1.988–6, unless otherwise provided in § 1.988–6. Treasury and the IRS therefore believe that no further clarification is necessary.

8. Netting Currency Gain or Loss With Other Gain or Loss Upon a Disposition of the Instrument

In response to a request in the preamble to the proposed regulations for comments regarding netting, the comment letter proposes that foreign currency gain or loss be netted with other gain or loss on the disposition of a debt instrument. Treasury and the IRS are concerned about this type of netting in the context of foreign currency contingent payment debt instruments. Depending on the particular terms of such an instrument, a change in value due to a contingency may be recognized for tax purposes in a year prior to the recognition of foreign currency gain or loss upon disposition of the instrument or may be recognized concurrently with the recognition of foreign currency gain or loss upon disposition. Treasury and the IRS therefore have concluded that netting is not appropriate in the context of foreign currency contingent payment debt instruments.

9. Tax Exempt Foreign Currency Contingent Payment Debt Instruments

In response to a request in the preamble to the proposed regulations for comments regarding tax exempt foreign currency contingent payment debt instruments, the comment letter requests certain modifications to § 1.1275–4(d)(3) to take into account the policy considerations underlying § 1.988–3(c). Treasury and the IRS appreciate these comments but believe the matter deserves more careful study before any regulations specifically addressing tax exempt foreign currency contingent payment debt instruments can be issued.

10. Multicurrency Debt Instruments With No Non-Currency Contingencies

In response to the request for comments contained in the preamble to the proposed regulations, the comment letter requests that all gain or loss on a sale of a multicurrency debt instrument that has no non-currency contingencies be characterized wholly as foreign currency gain or loss. Treasury and the IRS are concerned that such treatment would differ inappropriately from the treatment of gain or loss in respect of a contingent payment debt instrument that has currency contingencies and non-currency contingencies. Accordingly, no change has been made in the final regulations regarding this issue.

Effect on Other Documents

The following publications are obsolete with regard to debt instruments issued on or after October 29, 2004: Announcement 99–76, 1999–2 C.B. 223.

Special Analyses

It has been determined that this final regulation is not a significant regulatory action as defined in Executive Order 12866. Therefore, a regulatory assessment is not required. It is hereby certified that these regulations will not have a significant economic impact on a substantial number of small entities. This certification is based upon the fact that few, if any, small entities issue or hold foreign currency denominated contingent payment debt instruments. Generally, it is expected that the only domestic holders of these instruments will likely be financial institutions, investment banking firms, investment funds, and other sophisticated investors, due to the foreign currency risk and other contingencies inherent in these instruments. Therefore, a Regulatory Flexibility Analysis under the Regulatory Flexibility Act (5 U.S.C. chapter 6) is not required. Pursuant to 26 U.S.C. 7805(f), the notice of proposed rulemaking preceding these final regulations was submitted to the Chief Counsel for Advocacy of the Small Business Administration for comment on its impact on small business.

Drafting Information

The principal author of these regulations is Milton Cahn of the Office of the Associate Chief Counsel (International). However, other personnel from the IRS and Treasury Department participated in their development.

List of Subjects

26 CFR Part 1

Income taxes, Reporting and recordkeeping requirements.

26 CFR Part 602

Reporting and recordkeeping requirements.

Adoption of Amendments to the Regulations

■ Accordingly, 26 CFR parts 1 and 602 are amended as follows:

PART 1—INCOME TAXES

■ **Paragraph 1.** The authority citation for part 1 continues to read, in part, as follows:

Authority: 26 U.S.C. 7805 * * *

■ **Par. 2.** Section 1.988–0 is amended as follows:

■ 1. The introductory text is revised.

■ 2. Entries are added for §§ 1.988–2(b)(18), 1.988–2(h) and 1.988–6.

The revision and additions read as follows:

§ 1.988–0 Taxation of gain or loss from a section 988 transaction; Table of Contents.

This section lists captioned paragraphs contained in §§ 1.988–1 through 1.988–6.

* * * * *

§ 1.988–2 Recognition and Computation of Exchange Gain or Loss

* * * * *

(b) * * *

(18) Interaction of section 988 and § 1.1275–2(g).

* * * * *

(h) Timing of income and deductions from notional principal contracts.

* * * * *

§ 1.988–6 Nonfunctional Currency Contingent Payment Debt Instruments

(a) In general.
(1) Scope.
(2) Exception for hyperinflationary currencies.
(b) Instruments described in paragraph (a)(1)(i) of this section.
(1) In general.
(2) Application of noncontingent bond method.
(3) Treatment and translation of amounts determined under noncontingent bond method.
(4) Determination of gain or loss not attributable to foreign currency.
(5) Determination of foreign currency gain or loss.
(6) Source of gain or loss.
(7) Basis different from adjusted issue price.
(8) Fixed but deferred contingent payments.
(c) Examples.
(d) Multicurrency debt instruments.
(1) In general.
(2) Determination of denomination currency.
(3) Issuer/holder consistency.
(4) Treatment of payments in currencies other than the denomination currency.
(e) Instruments issued for nonpublicly traded property.
(1) Applicability.
(2) Separation into components.
(3) Treatment of components consisting of one or more noncontingent payments in the same currency.
(4) Treatment of components consisting of contingent payments.
(5) Basis different from adjusted issue price.
(6) Treatment of holder on sale, exchange, or retirement.
(f) Rules for nonfunctional currency tax exempt obligations described in § 1.1275–4(d).
(g) Effective date.

■ **Par. 3.** Section 1.988–2 is amended by:
■ 1. Adding the text of paragraph (b)(2)(i)(B)(*1*).
■ 2. Revising paragraph (b)(2)(i)(B)(*2*).
■ 3. Adding the text of paragraph (b)(18).

The additions and revision read as follows:

§ 1.988–2 Recognition and computation of exchange gain or loss.

* * * * *

(b) * * *
(2) * * *
(i) * * *

(B) * * * (*1*) *Operative rules.* See § 1.988–6 for rules applicable to contingent payment debt instruments for which one or more payments are denominated in, or determined by reference to, a nonfunctional currency.

(*2*) *Certain instruments are not contingent payment debt instruments.* For purposes of sections 163(e) and 1271 through 1275 and the regulations thereunder, a debt instrument does not provide for contingent payments merely because the instrument is denominated in, or all payments of which are determined with reference to, a single nonfunctional currency. See § 1.988–6 for the treatment of nonfunctional currency contingent payment debt instruments.

* * * * *

(18) *Interaction of section 988 and § 1.1275–2(g).*—(i) *In general.* If a principal purpose of structuring a debt instrument subject to section 988 and any related hedges is to achieve a result that is unreasonable in light of the purposes of section 163(e), section 988, sections 1271 through 1275, or any related section of the Internal Revenue Code, the Commissioner can apply or depart from the regulations under the applicable sections as necessary or appropriate to achieve a reasonable result. For example, if this paragraph (b)(18) applies to a multicurrency debt instrument and a hedge or hedges, the Commissioner can wholly or partially integrate transactions or treat portions of the debt instrument as separate instruments where appropriate. See also § 1.1275–2(g).

(ii) *Unreasonable result.* Whether a result is unreasonable is determined based on all the facts and circumstances. In making this determination, a significant fact is whether the treatment of the debt instrument is expected to have a substantial effect on the issuer's or a holder's U.S. tax liability. Another significant fact is whether the result is obtainable without the application of § 1.988–6 and any related provisions (*e.g.*, if the debt instrument and the contingency were entered into separately). A result will not be considered unreasonable, however, in the absence of an expected substantial effect on the present value of a taxpayer's tax liability.

(iii) *Effective date.* This paragraph (b)(18) shall apply to debt instruments issued on or after October 29, 2004.

* * * * *

■ **Par. 4.** Section 1.988–6 is added to read as follows:

§ 1.988–6 Nonfunctional currency contingent payment debt instruments.

(a) *In general.*—(1) *Scope.* This section determines the accrual of interest and the amount, timing, source, and character of any gain or loss on nonfunctional currency contingent payment debt instruments described in this paragraph (a)(1) and to which § 1.1275–4(a) would otherwise apply if the debt instrument were denominated in the taxpayer's functional currency. Except as provided by the rules in this section, the rules in § 1.1275–4 (relating to contingent payment debt instruments) apply to the following instruments—

(i) A debt instrument described in § 1.1275–4(b)(1) for which all payments of principal and interest are denominated in, or determined by reference to, a single nonfunctional currency and which has one or more non-currency related contingencies;

(ii) A debt instrument described in § 1.1275–4(b)(1) for which payments of principal or interest are denominated in, or determined by reference to, more than one currency and which has no non-currency related contingencies;

(iii) A debt instrument described in § 1.1275–4(b)(1) for which payments of principal or interest are denominated in, or determined by reference to, more than one currency and which has one or more non-currency related contingencies; and

(iv) A debt instrument otherwise described in paragraph (a)(1)(i), (ii) or (iii) of this section, except that the debt instrument is described in § 1.1275–4(c)(1) rather than § 1.1275–4(b)(1) (*e.g.*, the instrument is issued for non-publicly traded property).

(2) *Exception for hyperinflationary currencies.*—(i) *In general.* Except as provided in paragraph (a)(2)(ii) of this section, this section shall not apply to an instrument described in paragraph (a)(1) of this section if any payment made under such instrument is determined by reference to a hyperinflationary currency, as defined in § 1.985–1(b)(2)(ii)(D). In such case, the amount, timing, source and character of interest, principal, foreign currency gain or loss, and gain or loss relating to a non-currency contingency shall be determined under the method that reflects the instrument's economic substance.

(ii) *Discretion as to method.* If a taxpayer does not account for an instrument described in paragraph (a)(2)(i) of this section in a manner that reflects the instrument's economic substance, the Commissioner may apply the rules of this section to such an instrument or apply the principles of § 1.988–2(b)(15), reasonably taking into account the contingent feature or features of the instrument.

(b) *Instruments described in paragraph (a)(1)(i) of this section.*—(1) *In general.* Paragraph (b)(2) of this section provides rules for applying the noncontingent bond method (as set forth in § 1.1275–4(b)) in the nonfunctional

currency in which a debt instrument described in paragraph (a)(1)(i) of this section is denominated, or by reference to which its payments are determined (the denomination currency). Paragraph (b)(3) of this section describes how amounts determined in paragraph (b)(2) of this section shall be translated from the denomination currency of the instrument into the taxpayer's functional currency. Paragraph (b)(4) of this section describes how gain or loss (other than foreign currency gain or loss) shall be determined and characterized with respect to the instrument. Paragraph (b)(5) of this section describes how foreign currency gain or loss shall be determined with respect to accrued interest and principal on the instrument. Paragraph (b)(6) of this section provides rules for determining the source and character of any gain or loss with respect to the instrument. Paragraph (b)(7) of this section provides rules for subsequent holders of an instrument who purchase the instrument for an amount other than the adjusted issue price of the instrument. Paragraph (c) of this section provides examples of the application of paragraph (b) of this section. See paragraph (d) of this section for the determination of the denomination currency of an instrument described in paragraph (a)(1)(ii) or (iii) of this section. See paragraph (e) of this section for the treatment of an instrument described in paragraph (a)(1)(iv) of this section.

(2) *Application of noncontingent bond method*—(i) *Accrued interest.* Interest accruals on an instrument described in paragraph (a)(1)(i) of this section are initially determined in the denomination currency of the instrument by applying the noncontingent bond method, set forth in § 1.1275–4(b), to the instrument in its denomination currency. Accordingly, the comparable yield, projected payment schedule, and comparable fixed rate debt instrument, described in § 1.1275–4(b)(4), are determined in the denomination currency. For purposes of applying the noncontingent bond method to instruments described in this paragraph, the applicable Federal rate described in § 1.1275–4(b)(4)(i) shall be the rate described in § 1.1274–4(d) with respect to the denomination currency.

(ii) *Net positive and negative adjustments.* Positive and negative adjustments, and net positive and net negative adjustments, with respect to an instrument described in paragraph (a)(1)(i) of this section are determined by applying the rules of § 1.1275–4(b)(6) (and § 1.1275–4(b)(9)(i) and (ii), if applicable) in the denomination currency. Accordingly, a net positive adjustment is treated as additional interest (in the denomination currency) on the instrument. A net negative adjustment first reduces interest that otherwise would be accrued by the taxpayer during the current tax year in the denomination currency. If a net negative adjustment exceeds the interest that would otherwise be accrued by the taxpayer during the current tax year in the denomination currency, the excess is treated as ordinary loss (if the taxpayer is a holder of the instrument) or ordinary income (if the taxpayer is the issuer of the instrument). The amount treated as ordinary loss by a holder with respect to a net negative adjustment is limited, however, to the amount by which the holder's total interest inclusions on the debt instrument (determined in the denomination currency) exceed the total amount of the holder's net negative adjustments treated as ordinary loss on the debt instrument in prior taxable years (determined in the denomination currency). Similarly, the amount treated as ordinary income by an issuer with respect to a net negative adjustment is limited to the amount by which the issuer's total interest deductions on the debt instrument (determined in the denomination currency) exceed the total amount of the issuer's net negative adjustments treated as ordinary income on the debt instrument in prior taxable years (determined in the denomination currency). To the extent a net negative adjustment exceeds the current year's interest accrual and the amount treated as ordinary loss to a holder (or ordinary income to the issuer), the excess is treated as a negative adjustment carryforward, within the meaning of § 1.1275–4(b)(6)(iii)(C), in the denomination currency.

(iii) *Adjusted issue price.* The adjusted issue price of an instrument described in paragraph (a)(1)(i) of this section is determined by applying the rules of § 1.1275–4(b)(7) in the denomination currency. Accordingly, the adjusted issue price is equal to the debt instrument's issue price in the denomination currency, increased by the interest previously accrued on the debt instrument (determined without regard to any net positive or net negative adjustments on the instrument) and decreased by the amount of any noncontingent payment and the projected amount of any contingent payment previously made on the instrument. All adjustments to the adjusted issue price are calculated in the denomination currency.

(iv) *Adjusted basis.* The adjusted basis of an instrument described in paragraph (a)(1)(i) of this section is determined by applying the rules of § 1.1275–4(b)(7) in the taxpayer's functional currency. In accordance with those rules, a holder's basis in the debt instrument is increased by the interest previously accrued on the debt instrument (translated into functional currency), without regard to any net positive or net negative adjustments on the instrument (except as provided in paragraph (b)(7) or (8) of this section, if applicable), and decreased by the amount of any noncontingent payment and the projected amount of any contingent payment previously made on the instrument to the holder (translated into functional currency). See paragraph (b)(3)(iii) of this section for translation rules.

(v) *Amount realized.* The amount realized by a holder and the repurchase price paid by the issuer on the scheduled or unscheduled retirement of a debt instrument described in paragraph (a)(1)(i) of this section are determined by applying the rules of § 1.1275–4(b)(7) in the denomination currency. For example, with regard to a scheduled retirement at maturity, the holder is treated as receiving the projected amount of any contingent payment due at maturity, reduced by the amount of any negative adjustment carryforward. For purposes of translating the amount realized by the holder into functional currency, the rules of paragraph (b)(3)(iv) of this section shall apply.

(3) *Treatment and translation of amounts determined under noncontingent bond method*—(i) *Accrued interest.* The amount of accrued interest, determined under paragraph (b)(2)(i) of this section, is translated into the taxpayer's functional currency at the average exchange rate, as described in § 1.988–2(b)(2)(iii)(A), or, at the taxpayer's election, at the appropriate spot rate, as described in § 1.988–2(b)(2)(iii)(B).

(ii) *Net positive and negative adjustments*—(A) *Net positive adjustments.* A net positive adjustment, as referenced in paragraph (b)(2)(ii) of this section, is translated into the taxpayer's functional currency at the spot rate on the last day of the taxable year in which the adjustment is taken into account under § 1.1275–4(b)(6), or, if earlier, the date the instrument is disposed of or otherwise terminated.

(B) *Net negative adjustments.* A net negative adjustment is treated and, where necessary, is translated from the denomination currency into the taxpayer's functional currency under the following rules:

(*1*) The amount of a net negative adjustment determined in the denomination currency that reduces the current year's interest in that currency shall first reduce the current year's accrued but unpaid interest, and then shall reduce the current year's interest which was accrued and paid. No translation is required.

(*2*) The amount of a net negative adjustment treated as ordinary income or loss under § 1.1275–4(b)(6)(iii)(B) first is attributable to accrued but unpaid interest accrued in prior taxable years. For this purpose, the net negative adjustment shall be treated as attributable to any unpaid interest accrued in the immediately preceding taxable year, and thereafter to unpaid interest accrued in each preceding taxable year. The amount of the net negative adjustment applied to accrued but unpaid interest is translated into functional currency at the same rate used, in each of the respective prior taxable years, to translate the accrued interest.

(*3*) Any amount of the net negative adjustment remaining after the application of paragraphs (b)(3)(ii)(B)(*1*) and (*2*) of this section is attributable to interest accrued and paid in prior taxable years. The amount of the net negative adjustment applied to such amounts is translated into functional currency at the spot rate on the date the debt instrument was issued or, if later, acquired.

(*4*) Any amount of the net negative adjustment remaining after application of paragraphs (b)(3)(ii)(B)(*1*), (*2*) and (*3*) of this section is a negative adjustment carryforward, within the meaning of § 1.1275–4(b)(6)(iii)(C). A negative adjustment carryforward is carried forward in the denomination currency and is applied to reduce interest accruals in subsequent years. In the year in which the instrument is sold, exchanged or retired, any negative adjustment carryforward not applied to interest reduces the holder's amount realized on the instrument (in the denomination currency). An issuer of a debt instrument described in paragraph (a)(1)(i) of this section who takes into income a negative adjustment carryforward (that is not applied to interest) in the year the instrument is retired, as described in § 1.1275–4(b)(6)(iii)(C), translates such income into functional currency at the spot rate on the date the instrument was issued.

(iii) *Adjusted basis*—(A) *In general.* Except as otherwise provided in this paragraph and paragraph (b)(7) or (8) of this section, a holder determines and maintains adjusted basis by translating the denomination currency amounts determined under § 1.1275–4(b)(7)(iii) into functional currency as follows:

(*1*) The holder's initial basis in the instrument is determined by translating the amount paid by the holder to acquire the instrument (in the denomination currency) into functional currency at the spot rate on the date the instrument was issued or, if later, acquired.

(*2*) An increase in basis attributable to interest accrued on the instrument is translated at the rate applicable to such interest under paragraph (b)(3)(i) of this section.

(*3*) Any noncontingent payment and the projected amount of any contingent payments determined in the denomination currency that decrease the holder's basis in the instrument under § 1.1275–4(b)(7)(iii) are translated as follows:

(*i*) The payment first is attributable to the most recently accrued interest to which prior amounts have not already been attributed. The payment is translated into functional currency at the rate at which the interest was accrued.

(*ii*) Any amount remaining after the application of paragraph (b)(3)(iii)(A)(*3*)(*i*) of this section is attributable to principal. Such amounts are translated into functional currency at the spot rate on the date the instrument was issued or, if later, acquired.

(B) *Exception for interest reduced by a negative adjustment carryforward.* Solely for purposes of this § 1.988–6, any amounts of accrued interest income that are reduced as a result of a negative adjustment carryforward shall be treated as principal and translated at the spot rate on the date the instrument was issued or, if later, acquired.

(iv) *Amount realized*—(A) *Instrument held to maturity*—(*1*) *In general.* With respect to an instrument held to maturity, a holder translates the amount realized by separating such amount in the denomination currency into the component parts of interest and principal that make up adjusted basis prior to translation under paragraph (b)(3)(iii) of this section, and translating each of those component parts of the amount realized at the same rate used to translate the respective component parts of basis under paragraph (b)(3)(iii) of this section. The amount realized first shall be translated by reference to the component parts of basis consisting of accrued interest during the taxpayer's holding period as determined under paragraph (b)(3)(iii) of this section and ordering such amounts on a last in first out basis. Any remaining portion of the amount realized shall be translated by reference to the rate used to translate the component of basis consisting of principal as determined under paragraph (b)(3)(iii) of this section.

(*2*) *Subsequent purchases at discount and fixed but deferred contingent payments.* For purposes of this paragraph (b)(3)(iv) of this section, any amount which is required to be added to adjusted basis under paragraph (b)(7) or (8) of this section shall be treated as additional interest which was accrued on the date the amount was added to adjusted basis. To the extent included in amount realized, such amounts shall be translated into functional currency at the same rates at which they were translated for purposes of determining adjusted basis. See paragraphs (b)(7)(iv) and (b)(8) of this section for rules governing the rates at which the amounts are translated for purposes of determining adjusted basis.

(B) *Sale, exchange, or unscheduled retirement—(1) Holder.* In the case of a sale, exchange, or unscheduled retirement, application of the rule stated in paragraph (b)(3)(iv)(A) of this section shall be as follows. The holder's amount realized first shall be translated by reference to the principal component of basis as determined under paragraph (b)(3)(iii) of this section, and then to the component of basis consisting of accrued interest as determined under paragraph (b)(3)(iii) of this section and ordering such amounts on a first in first out basis. Any gain recognized by the holder (*i.e.*, any excess of the sale price over the holder's basis, both expressed in the denomination currency) is translated into functional currency at the spot rate on the payment date.

(*2*) *Issuer.* In the case of an unscheduled retirement of the debt instrument, any excess of the adjusted issue price of the debt instrument over the amount paid by the issuer (expressed in denomination currency) shall first be attributable to accrued unpaid interest, to the extent the accrued unpaid interest had not been previously offset by a negative adjustment, on a last-in-first-out basis, and then to principal. The accrued unpaid interest shall be translated into functional currency at the rate at which the interest was accrued. The principal shall be translated at the spot rate on the date the debt instrument was issued.

(C) *Effect of negative adjustment carryforward with respect to the issuer.* Any amount of negative adjustment carryforward treated as ordinary income under § 1.1275–4(b)(6)(iii)(C) shall be translated at the exchange rate on the day the debt instrument was issued.

(4) *Determination of gain or loss not attributable to foreign currency.* A

holder of a debt instrument described in paragraph (a)(1)(i) of this section shall recognize gain or loss upon sale, exchange, or retirement of the instrument equal to the difference between the amount realized with respect to the instrument, translated into functional currency as described in paragraph (b)(3)(iv) of this section, and the adjusted basis in the instrument, determined and maintained in functional currency as described in paragraph (b)(3)(iii) of this section. The amount of any gain or loss so determined is characterized as provided in § 1.1275–4(b)(8), and sourced as provided in paragraph (b)(6) of this section.

(5) *Determination of foreign currency gain or loss*—(i) *In general.* Other than in a taxable disposition of the debt instrument, foreign currency gain or loss is recognized with respect to a debt instrument described in paragraph (a)(1)(i) of this section only when payments are made or received. No foreign currency gain or loss is recognized with respect to a net positive or negative adjustment, as determined under paragraph (b)(2)(ii) of this section (except with respect to a positive adjustment described in paragraph (b)(8) of this section). As described in this paragraph (b)(5), foreign currency gain or loss is determined in accordance with the rules of § 1.988–2(b).

(ii) *Foreign currency gain or loss attributable to accrued interest.* The amount of foreign currency gain or loss recognized with respect to payments of interest previously accrued on the instrument is determined by translating the amount of interest paid or received into functional currency at the spot rate on the date of payment and subtracting from such amount the amount determined by translating the interest paid or received into functional currency at the rate at which such interest was accrued under the rules of paragraph (b)(3)(i) of this section. For purposes of this paragraph, the amount of any payment that is treated as accrued interest shall be reduced by the amount of any net negative adjustment treated as ordinary loss (to the holder) or ordinary income (to the issuer), as provided in paragraph (b)(2)(ii) of this section. For purposes of determining whether the payment consists of interest or principal, see the payment ordering rules in paragraph (b)(5)(iv) of this section.

(iii) *Principal.* The amount of foreign currency gain or loss recognized with respect to payment or receipt of principal is determined by translating the amount paid or received into functional currency at the spot rate on the date of payment or receipt and subtracting from such amount the amount determined by translating the principal into functional currency at the spot rate on the date the instrument was issued or, in case of the holder, if later, acquired. For purposes of determining whether the payment consists of interest or principal, see the payment ordering rules in paragraph (b)(5)(iv) of this section.

(iv) *Payment ordering rules*—(A) *In general.* Except as provided in paragraph (b)(5)(iv)(B) of this section, payments with respect to an instrument described in paragraph (a)(1)(i) of this section shall be treated as follows:

(*1*) A payment shall first be attributable to any net positive adjustment on the instrument that has not previously been taken into account.

(*2*) Any amount remaining after applying paragraph (b)(5)(iv)(A)(*1*) of this section shall be attributable to accrued but unpaid interest, remaining after reduction by any net negative adjustment, and shall be attributable to the most recent accrual period to the extent prior amounts have not already been attributed to such period.

(*3*) Any amount remaining after applying paragraphs (b)(5)(iv)(A)(*1*) and (*2*) of this section shall be attributable to principal. Any interest paid in the current year that is reduced by a net negative adjustment shall be considered a payment of principal for purposes of determining foreign currency gain or loss.

(B) *Special rule for sale or exchange or unscheduled retirement.* Payments made or received upon a sale or exchange or unscheduled retirement shall first be applied against the principal of the debt instrument (or in the case of a subsequent purchaser, the purchase price of the instrument in denomination currency) and then against accrued unpaid interest (in the case of a holder, accrued while the holder held the instrument).

(C) *Subsequent purchaser that has a positive adjustment allocated to a daily portion of interest.* A positive adjustment that is allocated to a daily portion of interest pursuant to paragraph (b)(7)(iv) of this section shall be treated as interest for purposes of applying the payment ordering rule of this paragraph (b)(5)(iv).

(6) *Source of gain or loss.* The source of foreign currency gain or loss recognized with respect to an instrument described in paragraph (a)(1)(i) of this section shall be determined pursuant to § 1.988–4. Consistent with the rules of § 1.1275–4(b)(8), all gain (other than foreign currency gain) on an instrument described in paragraph (a)(1)(i) of this section is treated as interest income for all purposes. The source of an ordinary loss (other than foreign currency loss) with respect to an instrument described in paragraph (a)(1)(i) of this section shall be determined pursuant to § 1.1275–4(b)(9)(iv). The source of a capital loss with respect to an instrument described in paragraph (a)(1)(i) of this section shall be determined pursuant to § 1.865–1(b)(2).

(7) *Basis different from adjusted issue price*—(i) *In general.* The rules of § 1.1275–4(b)(9)(i), except as set forth in this paragraph (b)(7), shall apply to an instrument described in paragraph (a)(1)(i) of this section purchased by a subsequent holder for more or less than the instrument's adjusted issue price.

(ii) *Determination of basis.* If an instrument described in paragraph (a)(1)(i) of this section is purchased by a subsequent holder, the subsequent holder's initial basis in the instrument shall equal the amount paid by the holder to acquire the instrument, translated into functional currency at the spot rate on the date of acquisition.

(iii) *Purchase price greater than adjusted issue price.* If the purchase price of the instrument (determined in the denomination currency) exceeds the adjusted issue price of the instrument, the holder shall, consistent with the rules of § 1.1275–4(b)(9)(i)(B), reasonably allocate such excess to the daily portions of interest accrued on the instrument or to a projected payment on the instrument. To the extent attributable to interest, the excess shall be reasonably allocated over the remaining term of the instrument to the daily portions of interest accrued and shall be a negative adjustment on the dates the daily portions accrue. On the date of such adjustment, the holder's adjusted basis in the instrument is reduced by the amount treated as a negative adjustment under this paragraph (b)(7)(iii), translated into functional currency at the rate used to translate the interest which is offset by the negative adjustment. To the extent related to a projected payment, such excess shall be treated as a negative adjustment on the date the payment is made. On the date of such adjustment, the holder's adjusted basis in the instrument is reduced by the amount treated as a negative adjustment under this paragraph (b)(7)(iii), translated into functional currency at the spot rate on the date the instrument was acquired.

(iv) *Purchase price less than adjusted issue price.* If the purchase price of the instrument (determined in the denomination currency) is less than the adjusted issue price of the instrument,

the holder shall, consistent with the rules of § 1.1275–4(b)(9)(i)(C), reasonably allocate the difference to the daily portions of interest accrued on the instrument or to a projected payment on the instrument. To the extent attributable to interest, the difference shall be reasonably allocated over the remaining term of the instrument to the daily portions of interest accrued and shall be a positive adjustment on the dates the daily portions accrue. On the date of such adjustment, the holder's adjusted basis in the instrument is increased by the amount treated as a positive adjustment under this paragraph (b)(7)(iv), translated into functional currency at the rate used to translate the interest to which it relates. For purposes of determining adjusted basis under paragraph (b)(3)(iii) of this section, such increase in adjusted basis shall be treated as an additional accrual of interest during the period to which the positive adjustment relates. To the extent related to a projected payment, such difference shall be treated as a positive adjustment on the date the payment is made. On the date of such adjustment, the holder's adjusted basis in the instrument is increased by the amount treated as a positive adjustment under this paragraph (b)(7)(iv), translated into functional currency at the spot rate on the date the adjustment is taken into account. For purposes of determining the amount realized on the instrument in functional currency under paragraph (b)(3)(iv) of this section, amounts attributable to the excess of the adjusted issue price of the instrument over the purchase price of the instrument shall be translated into functional currency at the same rate at which the corresponding adjustments are taken into account under this paragraph (b)(7)(iv) for purposes of determining the adjusted basis of the instrument.

(8) *Fixed but deferred contingent payments.* In the case of an instrument with a contingent payment that becomes fixed as to amount before the payment is due, the rules of § 1.1275–4(b)(9)(ii) shall be applied in the denomination currency of the instrument. For this purpose, foreign currency gain or loss shall be recognized on the date payment is made or received with respect to the instrument under the principles of paragraph (b)(5) of this section. Any increase or decrease in basis required under § 1.1275–4(b)(9)(ii)(D) shall be taken into account at the same exchange rate as the corresponding net positive or negative adjustment is taken into account.

(c) *Examples.* The provisions of paragraph (b) of this section may be illustrated by the following examples. In each example, assume that the instrument described is a debt instrument for federal income tax purposes. No inference is intended, however, as to whether the instrument is a debt instrument for federal income tax purposes. The examples are as follows:

Example 1. Treatment of net positive adjustment.—(i) *Facts.* On December 31, 2004, Z, a calendar year U.S. resident taxpayer whose functional currency is the U.S. dollar, purchases from a foreign corporation, at original issue, a zero-coupon debt instrument with a non-currency contingency for £1000. All payments of principal and interest with respect to the instrument are denominated in, or determined by reference to, a single nonfunctional currency (the British pound). The debt instrument would be subject to § 1.1275–4(b) if it were denominated in dollars. The debt instrument's comparable yield, determined in British pounds under paragraph (b)(2)(i) of this section and § 1.1275–4(b), is 10 percent, compounded annually, and the projected payment schedule, as constructed under the rules of § 1.1275–4(b), provides for a single payment of £1210 on December 31, 2006 (consisting of a noncontingent payment of £975 and a projected payment of £235). The debt instrument is a capital asset in the hands of Z. Z does not elect to use the spot-rate convention described in § 1.988–2(b)(2)(iii)(B). The payment actually made on December 31, 2006, is £1300. The relevant pound/dollar spot rates over the term of the instrument are as follows:

Date	Spot rate (pounds to dollars)
Dec. 31, 2004	£1.00 = $1.00
Dec. 31, 2005	£1.00 = $1.10
Dec. 31, 2006	£1.00 = $1.20

Accrual period	Average rate (pounds to dollars)
2005	£1.00 = $1.05
2006	£1.00 = $1.15

(ii) *Treatment in 2005.*—(A) *Determination of accrued interest.* Under paragraph (b)(2)(i) of this section, and based on the comparable yield, Z accrues £100 of interest on the debt instrument for 2005 (issue price of £1000 × 10 percent). Under paragraph (b)(3)(i) of this section, Z translates the £100 at the average exchange rate for the accrual period ($1.05 x £100 = $105). Accordingly, Z has interest income in 2005 of $105.

(B) *Adjusted issue price and basis.* Under paragraphs (b)(2)(iii) and (iv) of this section, the adjusted issue price of the debt instrument determined in pounds and Z's adjusted basis in dollars in the debt instrument are increased by the interest accrued in 2005. Thus, on January 1, 2006, the adjusted issue price of the debt instrument is £1100. For purposes of determining Z's dollar basis in the debt instrument, the $1000 basis ($1.00 × £1000 original cost basis) is increased by the £100 of accrued interest, translated at the rate at which interest was accrued for 2005. See paragraph (b)(3)(iii) of this section. Accordingly, Z's adjusted basis in the debt instrument as of January 1, 2006, is $1105.

(iii) *Treatment in 2006.*—(A) *Determination of accrued interest.* Under paragraph (b)(2)(i) of this section, and based on the comparable yield, Z accrues £110 of interest on the debt instrument for 2006 (adjusted issue price of £1100 × 10 percent). Under paragraph (b)(3)(i) of this section, Z translates the £110 at the average exchange rate for the accrual period ($1.15 × £110 = $126.50). Accordingly, Z has interest income in 2006 of $126.50.

(B) *Effect of net positive adjustment.* The payment actually made on December 31, 2006, is £1300, rather than the projected £1210. Under paragraph (b)(2)(ii) of this section, Z has a net positive adjustment of £90 on December 31, 2006, attributable to the difference between the amount of the actual payment and the amount of the projected payment. Under paragraph (b)(3)(ii)(A) of this section, the £90 net positive adjustment is treated as additional interest income and is translated into dollars at the spot rate on the last day of the year ($1.20 × £90 = $108). Accordingly, Z has a net positive adjustment of $108 resulting in a total interest inclusion for 2006 of $234.50 ($126.50 + $108 = $234.50).

(C) *Adjusted issue price and basis.* Based on the projected payment schedule, the adjusted issue price of the debt instrument immediately before the payment at maturity is £1210 (£1100 plus £110 of accrued interest for 2006). Z's adjusted basis in dollars, based only on the noncontingent payment and the projected amount of the contingent payment to be received, is $1231.50 ($1105 plus $126.50 of accrued interest for 2006).

(D) *Amount realized.* Even though Z receives £1300 at maturity, for purposes of determining the amount realized, Z is treated under paragraph (b)(2)(v) of this section as receiving the projected amount of the contingent payment on December 31, 2006. Therefore, Z is treated as receiving £1210 on December 31, 2006. Under paragraph (b)(3)(iv) of this section, Z translates its amount realized into dollars and computes its gain or loss on the instrument (other than foreign currency gain or loss) by breaking the amount realized into its component parts. Accordingly, £100 of the £1210 (representing the interest accrued in 2005) is translated at the rate at which it was accrued (£1 = $1.05), resulting in an amount realized of $105; £110 of the £1210 (representing the interest accrued in 2006) is translated into dollars at the rate at which it was accrued (£1 = $1.15), resulting in an amount realized of $126.50; and £1000 of the £1210 (representing a return of principal) is translated into dollars at the spot rate on the date the instrument was purchased (£1 = $1), resulting in an amount realized of $1000. Z's total amount realized is $1231.50, the same as its basis, and Z recognizes no gain or loss (before consideration of foreign currency gain or loss) on retirement of the instrument.

(E) *Foreign currency gain or loss.* Under paragraph (b)(5) of this section Z recognizes

foreign currency gain under section 988 on the instrument with respect to the consideration actually received at maturity (except for the net positive adjustment), £1210. The amount of recognized foreign currency gain is determined based on the difference between the spot rate on the date the instrument matures and the rates at which the principal and interest were taken into account. With respect to the portion of the payment attributable to interest accrued in 2005, the foreign currency gain is $15 [£100 × ($1.20 − $1.05)]. With respect to interest accrued in 2006, the foreign currency gain equals $5.50 [£110 × ($1.20 − $1.15)]. With respect to principal, the foreign currency gain is $200 [£1000 × ($1.20 − $1.00)]. Thus, Z recognizes a total foreign currency gain on December 31, 2006, of $220.50.

(F) *Source.* Z has interest income of $105 in 2005, interest income of $234.50 in 2006 (attributable to £110 of accrued interest and the £90 net positive adjustment), and a foreign currency gain of $220.50 in 2006. Under paragraph (b)(6) of this section and section 862(a)(1), the interest income is sourced by reference to the residence of the payor and is therefore from sources without the United States. Under paragraph (b)(6) of this section and § 1.988–4, Z's foreign currency gain of $220.50 is sourced by reference to Z's residence and is therefore from sources within the United States.

Example 2. Treatment of net negative adjustment—

(i) *Facts.* Assume the same facts as in *Example 1*, except that Z receives £975 at maturity instead of £1300.

(ii) *Treatment in 2005.* The treatment of the debt instrument in 2005 is the same as in *Example 1*. Thus, Z has interest income in 2005 of $105. On January 1, 2006, the adjusted issue price of the debt instrument is £1100, and Z's adjusted basis in the instrument is $1105.

(iii) *Treatment in 2006*—(A) *Determination of accrued interest.* Under paragraph (b)(2)(i) of this section and based on the comparable yield, Z's accrued interest for 2006 is £110 (adjusted issue price of £1100 × 10 percent). Under paragraph (b)(3)(i) of this section, the £110 of accrued interest is translated at the average exchange rate for the accrual period ($1.15 × £110 = $126.50).

(B) *Effect of net negative adjustment.* The payment actually made on December 31, 2006, is £975, rather than the projected £1210. Under paragraph (b)(2)(ii) of this section, Z has a net negative adjustment of £235 on December 31, 2006, attributable to the difference between the amount of the actual payment and the amount of the projected payment. Z's accrued interest income of £110 in 2006 is reduced to zero by the net negative adjustment. Under paragraph (b)(3)(ii)(B)(*1*) of this section the net negative adjustment which reduces the current year's interest is not translated into functional currency. Under paragraph (b)(2)(ii) of this section, Z treats the remaining £125 net negative adjustment as an ordinary loss to the extent of the £100 previously accrued interest in 2005. This £100 ordinary loss is attributable to interest accrued but not paid in the preceding year. Therefore, under paragraph (b)(3)(ii)(B)(*2*) of this section, Z translates the loss into dollars at the average rate for such year (£1 = $1.05). Accordingly, Z has an ordinary loss of $105 in 2006. The remaining £25 of net negative adjustment is a negative adjustment carryforward under paragraph (b)(2)(ii) of this section.

(C) *Adjusted issue price and basis.* Based on the projected payment schedule, the adjusted issue price of the debt instrument immediately before the payment at maturity is £1210 (£1100 plus £110 of accrued interest for 2006). Z's adjusted basis in dollars, based only on the noncontingent payments and the projected amount of the contingent payments to be received, is $1231.50 ($1105 plus $126.50 of accrued interest for 2006).

(D) *Amount realized.* Even though Z receives £975 at maturity, for purposes of determining the amount realized, Z is treated under paragraph (b)(2)(v) of this section as receiving the projected amount of the contingent payment on December 31, 2006, reduced by the amount of Z's negative adjustment carryforward of £25. Therefore, Z is treated as receiving £1185 (£1210 − £25) on December 31, 2006. Under paragraph (b)(3)(iv) of this section, Z translates its amount realized into dollars and computes its gain or loss on the instrument (other than foreign currency gain or loss) by breaking the amount realized into its component parts. Accordingly, £100 of the £1185 (representing the interest accrued in 2005) is translated at the rate at which it was accrued (£1 = $1.05), resulting in an amount realized of $105; £110 of the £1185 (representing the interest accrued in 2006) is translated into dollars at the rate at which it was accrued (£1 = $1.15), resulting in an amount realized of $126.50; and £975 of the £1185 (representing a return of principal) is translated into dollars at the spot rate on the date the instrument was purchased (£1 = $1), resulting in an amount realized of $975. Z's amount realized is $1206.50 ($105 + $126.50 + $975 = $1206.50), and Z recognizes a capital loss (before consideration of foreign currency gain or loss) of $25 on retirement of the instrument ($1206.50 − $1231.50 = − $25).

(E) *Foreign currency gain or loss.* Z recognizes foreign currency gain with respect to the consideration actually received at maturity, £975. Under paragraph (b)(5)(ii) of this section, no foreign currency gain or loss is recognized with respect to unpaid accrued interest reduced to zero by the net negative adjustment resulting in 2006. In addition, no foreign currency gain or loss is recognized with respect to unpaid accrued interest from 2005, also reduced to zero by the ordinary loss. Accordingly, Z recognizes foreign currency gain with respect to principal only. Thus, Z recognizes a total foreign currency gain on December 31, 2006, of $195 [£975 × ($1.20 − $1.00)].

(F) *Source.* In 2006, Z has an ordinary loss of $105, a capital loss of $25, and a foreign currency gain of $195. Under paragraph (b)(6) of this section and § 1.1275–4(b)(9)(iv), the $105 ordinary loss generally reduces Z's foreign source passive income under section 904(d) and the regulations thereunder. Under paragraph (b)(6) of this section and § 1.865–1(b)(2), the $25 capital loss is sourced by reference to how interest income on the instrument would have been sourced. Therefore, the $25 capital loss generally reduces Z's foreign source passive income under section 904(d) and the regulations thereunder. Under paragraph (b)(6) of this section and § 1.988–4, Z's foreign currency gain of $195 is sourced by reference to Z's residence and is therefore from sources within the United States.

Example 3. Negative adjustment and periodic interest payments—(i) *Facts.* On December 31, 2004, Z, a calendar year U.S. resident taxpayer whose functional currency is the U.S. dollar, purchases from a foreign corporation, at original issue, a two-year debt instrument with a non-currency contingency for £1000. All payments of principal and interest with respect to the instrument are denominated in, or determined by reference to, a single nonfunctional currency (the British pound). The debt instrument would be subject to § 1.1275–4(b) if it were denominated in dollars. The debt instrument's comparable yield, determined in British pounds under §§ 1.988–2(b)(2) and 1.1275–4(b), is 10 percent, compounded semiannually. The debt instrument provides for semiannual interest payments of £30 payable each June 30, and December 31, and a contingent payment at maturity on December 31, 2006, which is projected to equal £1086.20 (consisting of a noncontingent payment of £980 and a projected payment of £106.20) in addition to the interest payable at maturity. The debt instrument is a capital asset in the hands of Z. Z does not elect to use the spot-rate convention described in § 1.988–2(b)(2)(iii)(B). The payment actually made on December 31, 2006, is £981.00. The relevant pound/dollar spot rates over the term of the instrument are as follows:

Date	Spot rate (pounds to dollars)
Dec. 31, 2004	£1.00 = $1.00
June 30, 2005	£1.00 = $1.20
Dec. 31, 2005	£1.00 = $1.40
June 30, 2006	£1.00 = $1.60
Dec. 31, 2006	£1.00 = $1.80

Accrual period	Average rate (pounds to dollars)
Jan.–June 2005	£1.00 = $1.10
July–Dec. 2005	£1.00 = $1.30
Jan.–June 2006	£1.00 = $1.50
July–Dec. 2006	£1.00 = $1.70

(ii) *Treatment in 2005*—(A) *Determination of accrued interest.* Under paragraph (b)(2)(i) of this section, and based on the comparable yield, Z accrues £50 of interest on the debt instrument for the January–June accrual period (issue price of £1000 × 10 percent/2). Under paragraph (b)(3)(i) of this section, Z translates the £50 at the average exchange rate for the accrual period ($1.10 × £50 = $55.00). Similarly, Z accrues £51 of interest in the July–December accrual period [(£1000 + £50 − £30) × 10 percent/2], which is translated at the average exchange rate for the accrual period ($1.30 × £51 = $66.30). Accordingly, Z accrues $121.30 of interest income in 2005.

(B) *Adjusted issue price and basis*—(*1*) *January–June accrual period.* Under paragraphs (b)(2)(iii) and (iv) of this section, the adjusted issue price of the debt instrument determined in pounds and Z's adjusted basis in dollars in the debt instrument are increased by the interest accrued, and decreased by the interest payment made, in the January–June accrual period. Thus, on July 1, 2005, the adjusted issue price of the debt instrument is £1020 (£1000 + £50 − £30 = £1020). For purposes of determining Z's dollar basis in the debt instrument, the $1000 basis is increased by the £50 of accrued interest, translated, under paragraph (b)(3)(iii) of this section, at the rate at which interest was accrued for the January–June accrual period ($1.10 × £50 = $55). The resulting amount is reduced by the £30 payment of interest made during the accrual period, translated, under paragraph (b)(3)(iii) of this section and § 1.988–2(b)(7), at the rate applicable to accrued interest ($1.10 × £30 = $33). Accordingly, Z's adjusted basis as of July 1, 2005, is $1022 ($1000 + $55 − $33).

(*2*) *July–December accrual period.* Under paragraphs (b)(2)(iii) and (iv) of this section, the adjusted issue price of the debt instrument determined in pounds and Z's adjusted basis in dollars in the debt instrument are increased by the interest accrued, and decreased by the interest payment made, in the July–December accrual period. Thus, on January 1, 2006, the adjusted issue price of the instrument is £1041 (£1020 + £51 − £30 = £1041). For purposes of determining Z's dollar basis in the debt instrument, the $1022 basis is increased by the £51 of accrued interest, translated, under paragraph (b)(3)(iii) of this section, at the rate at which interest was accrued for the July–December accrual period ($1.30 × £51 = $66.30). The resulting amount is reduced by the £30 payment of interest made during the accrual period, translated, under paragraph (b)(3)(iii) of this section and § 1.988–2(b)(7), at the rate applicable to accrued interest ($1.30 × £30 = $39). Accordingly, Z's adjusted basis as of January 1, 2006, is $1049.30 ($1022 + $66.30 − $39).

(C) *Foreign currency gain or loss.* Z will recognize foreign currency gain on the receipt of each £30 payment of interest actually received during 2005. The amount of foreign currency gain in each case is determined, under paragraph (b)(5)(ii) of this section, by reference to the difference between the spot rate on the date the £30 payment was made and the average exchange rate for the accrual period during which the interest accrued. Accordingly, Z recognizes $3 of foreign currency gain on the January–June interest payment [£30 × ($1.20 − $1.10)], and $3 of foreign currency gain on the July–December interest payment [£30 × ($1.40 − $1.30)]. Z recognizes in 2005 a total of $6 of foreign currency gain.

(D) *Source.* Z has interest income of $121.30 and a foreign currency gain of $6. Under paragraph (b)(6) of this section and section 862(a)(1), the interest income is sourced by reference to the residence of the payor and is therefore from sources without the United States. Under paragraph (b)(6) of this section and § 1.988–4, Z's foreign currency gain of $6 is sourced by reference to Z's residence and is therefore from sources within the United States.

(iii) *Treatment in 2006*—(A) *Determination of accrued interest.* Under paragraph (b)(2)(i) of this section, and based on the comparable yield, Z's accrued interest for the January–June accrual period is £52.05 (adjusted issue price of £1041 × 10 percent/2). Under paragraph (b)(3)(i) of this section, Z translates the £52.05 at the average exchange rate for the accrual period ($1.50 × £52.05 = $78.08). Similarly, Z accrues £53.15 of interest in the July–December accrual period [(£1041 + £52.05 − £30) × 10 percent/2], which is translated at the average exchange rate for the accrual period ($1.70 × £53.15 = $90.35). Accordingly, Z accrues £105.20, or $168.43, of interest income in 2006.

(B) *Effect of net negative adjustment.* The payment actually made on December 31, 2006, is £981.00, rather than the projected £1086.20. Under paragraph (b)(2)(ii)(B) of this section, Z has a net negative adjustment of £105.20 on December 31, 2006, attributable to the difference between the amount of the actual payment and the amount of the projected payment. Z's accrued interest income of £105.20 in 2006 is reduced to zero by the net negative adjustment. Elimination of the 2006 accrued interest fully utilizes the net negative adjustment.

(C) *Adjusted issue price and basis*—(1) *January–June accrual period.* Under paragraphs (b)(2)(iii) and (iv) of this section, the adjusted issue price of the debt instrument determined in pounds and Z's adjusted basis in dollars in the debt instrument are increased by the interest accrued, and decreased by the interest payment made, in the January–June accrual period. Thus, on July 1, 2006, the adjusted issue price of the debt instrument is £1063.05 (£1041 + £52.05 − £30 = £1063.05). For purposes of determining Z's dollar basis in the debt instrument, the $1049.30 adjusted basis is increased by the £52.05 of accrued interest, translated, under paragraph (b)(3)(iii) of this section, at the rate at which interest was accrued for the January–June accrual period ($1.50 × £52.05 = $78.08). The resulting amount is reduced by the £30 payment of interest made during the accrual period, translated, under paragraph (b)(3)(iii) of this section and § 1.988–2(b)(7), at the rate applicable to accrued interest ($1.50 × £30 = $45). Accordingly, Z's adjusted basis as of July 1, 2006, is $1082.38 ($1049.30 + $78.08 − $45).

(2) *July–December accrual period.* Under paragraphs (b)(2)(iii) and (iv) of this section, the adjusted issue price of the debt instrument determined in pounds and Z's adjusted basis in dollars in the debt instrument are increased by the interest accrued, and decreased by the interest payment made, in the July–December accrual period. Thus, immediately before maturity on December 31, 2006, the adjusted issue price of the instrument is £1086.20 (£1063.05 + £53.15 − £30 = £1086.20). For purposes of determining Z's dollar basis in the debt instrument, the $1082.38 adjusted basis is increased by the £53.15 of accrued interest, translated, under paragraph (b)(3)(iii) of this section, at the rate at which interest was accrued for the July-December accrual period ($1.70 × £53.15 = $90.36). The resulting amount is reduced by the £30 payment of interest made during the accrual period, translated, under paragraph (b)(3)(iii) of this section and § 1.988–2(b)(7), at the rate applicable to accrued interest ($1.70 × £30 = $51). Accordingly, Z's adjusted basis on December 31, 2006, immediately prior to maturity is $1121.74 ($1082.38 + $90.36 − $51).

(D) *Amount realized.* Even though Z receives £981.00 at maturity, for purposes of determining the amount realized, Z is treated under paragraph (b)(2)(v) of this section as receiving the projected amount of the contingent payment on December 31, 2006. Therefore, Z is treated as receiving £1086.20 on December 31, 2006. Under paragraph (b)(3)(iv) of this section, Z translates its amount realized into dollars and computes its gain or loss on the instrument (other than foreign currency gain or loss) by breaking the amount realized into its component parts. Accordingly, £20 of the £1086.20 (representing the interest accrued in the January–June 2005 accrual period, less £30 interest paid) is translated into dollars at the rate at which it was accrued (£1 = $1.10), resulting in an amount realized of $22; £21 of the £1086.20 (representing the interest accrued in the July–December 2005 accrual period, less £30 interest paid) is translated into dollars at the rate at which it was accrued (£1 = $1.30), resulting in an amount realized of $27.30; £22.05 of the £1086.20 (representing the interest accrued in the January–June 2006 accrual period, less £30 interest paid) is translated into dollars at the rate at which it was accrued (£1 = $1.50), resulting in an amount realized of $33.08; £23.15 of the £1086.20 (representing the interest accrued in the July 1–December 31, 2006 accrual period, less the £30 interest payment) is translated into dollars at the rate at which it was accrued (£1 = $1.70), resulting in an amount realized of $39.36; and £1000 (representing principal) is translated into dollars at the spot rate on the date the instrument was purchased (£1 = $1), resulting in an amount realized of $1000. Accordingly, Z's total amount realized is $1121.74 ($22 + $27.30 + $33.08 + $39.36 + $1000), the same as its basis, and Z recognizes no gain or loss (before consideration of foreign currency gain or loss) on retirement of the instrument.

(E) *Foreign currency gain or loss.* Z recognizes foreign currency gain with respect to each £30 payment actually received during 2006. These payments, however, are treated as payments of principal for this purpose because all 2006 accrued interest is reduced to zero by the net negative adjustment. See paragraph (b)(5)(iv)(A)(*3*) of this section. The amount of foreign currency gain in each case is determined, under paragraph (b)(5)(iii) of this section, by reference to the difference between the spot rate on the date the £30 payment is made and the spot rate on the date the debt instrument was issued. Accordingly, Z recognizes $18 of foreign currency gain on the January–June 2006 interest payment [£30 × ($1.60 − $1.00)], and $24 of foreign currency gain on the July–

December 2006 interest payment [£30 × ($1.80 − $1.00)]. Z separately recognizes foreign currency gain with respect to the consideration actually received at maturity, £981.00. The amount of such gain is determined based on the difference between the spot rate on the date the instrument matures and the rates at which the principal and interest were taken into account. With respect to the portion of the payment attributable to interest accrued in January–June 2005 (other than the £30 payments), the foreign currency gain is $14 [£20 × ($1.80 − $1.10)]. With respect to the portion of the payment attributable to interest accrued in July–December 2005 (other than the £30 payments), the foreign currency gain is $10.50 [£21 × ($1.80 − $1.30)]. With respect to the portion of the payment attributable to interest accrued in 2006 (other than the £30 payments), no foreign currency gain or loss is recognized under paragraph (b)(5)(ii) of this section because such interest was reduced to zero by the net negative adjustment. With respect to the portion of the payment attributable to principal, the foreign currency gain is $752 [£940 × ($1.80 − $1.00)]. Thus, Z recognizes a foreign currency gain of $42 on receipt of the two £30 payments in 2006, and $776.50 ($14 + $10.50 + $752) on receipt of the payment at maturity, for a total 2006 foreign currency gain of $818.50.

(F) *Source.* Under paragraph (b)(6) of this section and § 1.988–4, Z's foreign currency gain of $818.50 is sourced by reference to Z's residence and is therefore from sources within the United States.

Example 4. Purchase price greater than adjusted issue price —(i) *Facts.* On July 1, 2005, Z, a calendar year U.S. resident taxpayer whose functional currency is the U.S. dollar, purchases a debt instrument with a non-currency contingency for £1405. All payments of principal and interest with respect to the instrument are denominated in, or determined by reference to, a single nonfunctional currency (the British pound). The debt instrument would be subject to § 1.1275–4(b) if it were denominated in dollars. The debt instrument was originally issued by a foreign corporation on December 31, 2003, for an issue price of £1000, and matures on December 31, 2006. The debt instrument's comparable yield, determined in British pounds under §§ 1.988–2(b)(2) and 1.1275–4(b), is 10.25 percent, compounded semiannually, and the projected payment schedule for the debt instrument (determined as of the issue date under the rules of § 1.1275–4(b)) provides for a single payment at maturity of £1349.70 (consisting of a noncontingent payment of £1000 and a projected payment of £349.70). At the time of the purchase, the adjusted issue price of the debt instrument is £1161.76, assuming semiannual accrual periods ending on June 30 and December 31 of each year. The increase in the value of the debt instrument over its adjusted issue price is due to an increase in the expected amount of the contingent payment. The debt instrument is a capital asset in the hands of Z. Z does not elect to use the spot-rate convention described in § 1.988–2(b)(2)(iii)(B). The payment actually made on December 31, 2006, is £1400. The relevant pound/dollar spot rates over the term of the instrument are as follows:

Date	Spot rate (pounds to dollars)
July 1, 2005	£1.00 = $1.00
Dec. 31, 2006	£1.00 = $2.00

Accrual period	Average rate (pounds to dollars)
July 1–Dec. 31, 2005	£1.00 = $1.50
Jan. 1–June 30, 2006	£1.00 = $1.50
July 1–Dec. 31, 2006	£1.00 = $1.50

(ii) *Initial basis.* Under paragraph (b)(7)(ii) of this section, Z's initial basis in the debt instrument is $1405, Z's purchase price of £1405, translated into functional currency at the spot rate on the date the debt instrument was purchased (£1 = $1).

(iii) *Allocation of purchase price differential.* Z purchased the debt instrument for £1405 when its adjusted issue price was £1161.76. Under paragraph (b)(7)(iii) of this section, Z allocates the £243.24 excess of purchase price over adjusted issue price to the contingent payment at maturity. This allocation is reasonable because the excess is due to an increase in the expected amount of the contingent payment and not, for example, to a decrease in prevailing interest rates.

(iv) *Treatment in 2005*—(A) *Determination of accrued interest.* Under paragraph (b)(2)(i) of this section, and based on the comparable yield, Z accrues £59.54 of interest on the debt instrument for the July–December 2005 accrual period (issue price of £1161.76 × 10.25 percent/2). Under paragraph (b)(3)(i) of this section, Z translates the £59.54 of interest at the average exchange rate for the accrual period ($1.50 × £59.54 = $89.31). Accordingly, Z has interest income in 2005 of $89.31.

(B) *Adjusted issue price and basis.* Under paragraphs (b)(2)(iii) and (iv) of this section, the adjusted issue price of the debt instrument determined in pounds and Z's adjusted basis in dollars in the debt instrument are increased by the interest accrued in July–December 2005. Thus, on January 1, 2006, the adjusted issue price of the debt instrument is £1221.30 (£1161.76 + £59.54). For purposes of determining Z's dollar basis in the debt instrument on January 1, 2006, the $1405 basis is increased by the £59.54 of accrued interest, translated at the rate at which interest was accrued for the July–December 2005 accrual period. Paragraph (b)(3)(iii) of this section. Accordingly, Z's adjusted basis in the instrument, as of January 1, 2006, is $1494.31 [$1405 + (£59.54 × $1.50)].

(v) *Treatment in 2006*—(A) *Determination of accrued interest.* Under paragraph (b)(2)(i) of this section, and based on the comparable yield, Z accrues £62.59 of interest on the debt instrument for the January–June 2006 accrual period (issue price of £1221.30 × 10.25 percent/2). Under paragraph (b)(3)(i) of this section, Z translates the £62.59 of accrued interest at the average exchange rate for the accrual period ($1.50 × £62.59 = $93.89). Similarly, Z accrues £65.80 of interest in the July–December 2006 accrual period [(£1221.30 + £62.59) × 10.25 percent/2], which is translated at the average exchange rate for the accrual period ($1.50 × £65.80 = $98.70). Accordingly, Z accrues £128.39, or $192.59, of interest income in 2006.

(B) *Effect of positive and negative adjustments*—(*1*) *Offset of positive adjustment.* The payment actually made on December 31, 2006, is £1400, rather than the projected £1349.70. Under paragraph (b)(2)(ii) of this section, Z has a positive adjustment of £50.30 on December 31, 2006, attributable to the difference between the amount of the actual payment and the amount of the projected payment. Under paragraph (b)(7)(iii) of this section, however, Z also has a negative adjustment of £243.24, attributable to the excess of Z's purchase price for the debt instrument over its adjusted issue price. Accordingly, Z will have a net negative adjustment of £192.94 (£50.30 − £243.24 = £192.94) for 2006.

(*2*) *Offset of accrued interest.* Z's accrued interest income of £128.39 in 2006 is reduced to zero by the net negative adjustment. The net negative adjustment which reduces the current year's interest is not translated into functional currency. Under paragraph (b)(2)(ii) of this section, Z treats the remaining £64.55 net negative adjustment as an ordinary loss to the extent of the £59.54 previously accrued interest in 2005. This £59.54 ordinary loss is attributable to interest accrued but not paid in the preceding year. Therefore, under paragraph (b)(3)(ii)(B)(*2*) of this section, Z translates the loss into dollars at the average rate for such year (£1 = $1.50). Accordingly, Z has an ordinary loss of $89.31 in 2006. The remaining £5.01 of net negative adjustment is a negative adjustment carryforward under paragraph (b)(2)(ii) of this section.

(C) *Adjusted issue price and basis*—(*1*) *January–June accrual period.* Under paragraph (b)(2)(iii) of this section, the adjusted issue price of the debt instrument on July 1, 2006, is £1283.89 (£1221.30 + £62.59 = £1283.89). Under paragraphs (b)(2)(iv) and (b)(3)(iii) of this section, Z's adjusted basis as of July 1, 2006, is $1588.20 ($1494.31 + $93.89).

(*2*) *July–December accrual period.* Based on the projected payment schedule, the adjusted issue price of the debt instrument immediately before the payment at maturity is £1349.70 (£1283.89 + £65.80 accrued interest for July–December). Z's adjusted basis in dollars, based only on the noncontingent payments and the projected amount of the contingent payments to be received, is $1686.90 ($1588.20 plus $98.70 of accrued interest for July–December).

(*3*) *Adjustment to basis upon contingent payment.* Under paragraph (b)(7)(iii) of this section, Z's adjusted basis in the debt instrument is reduced at maturity by £243.24, the excess of Z's purchase price for the debt instrument over its adjusted issue price. For this purpose, the adjustment is translated into functional currency at the spot rate on the date the instrument was acquired (£1 = $1). Accordingly, Z's adjusted basis in the debt instrument at maturity is $1443.66 ($1686.90 − $243.24).

(D) *Amount realized.* Even though Z receives £1400 at maturity, for purposes of

determining the amount realized, Z is treated under paragraph (b)(2)(v) of this section as receiving the projected amount of the contingent payment on December 31, 2006, reduced by the amount of Z's negative adjustment carryforward of £5.01. Therefore, Z is treated as receiving £1344.69 (£1349.70 − £5.01) on December 31, 2006. Under paragraph (b)(3)(iv) of this section, Z translates its amount realized into dollars and computes its gain or loss on the instrument (other than foreign currency gain or loss) by breaking the amount realized into its component parts. Accordingly, £59.54 of the £1344.69 (representing the interest accrued in 2005) is translated at the rate at which it was accrued (£1 = $1.50), resulting in an amount realized of $89.31; £62.59 of the £1344.69 (representing the interest accrued in January–June 2006) is translated into dollars at the rate at which it was accrued (£1 = $1.50), resulting in an amount realized of $93.89; £65.80 of the £1344.69 (representing the interest accrued in July–December 2006) is translated into dollars at the rate at which it was accrued (£1 = $1.50), resulting in an amount realized of $98.70; and £1156.76 of the £1344.69 (representing a return of principal) is translated into dollars at the spot rate on the date the instrument was purchased (£1 = $1), resulting in an amount realized of $1156.76. Z's amount realized is $1438.66 ($89.31 + $93.89 + $98.70 + $1156.76), and Z recognizes a capital loss (before consideration of foreign currency gain or loss) of $5 on retirement of the instrument ($1438.66 − $1443.66 = −$5).

(E) *Foreign currency gain or loss.* Z recognizes foreign currency gain under section 988 on the instrument with respect to the entire consideration actually received at maturity, £1400. While foreign currency gain or loss ordinarily would not have arisen with respect to £50.30 of the £1400, which was initially treated as a positive adjustment in 2006, the larger negative adjustment in 2006 reduced this positive adjustment to zero. Accordingly, foreign currency gain or loss is recognized with respect to the entire £1400. Under paragraph (b)(5)(ii) of this section, however, no foreign currency gain or loss is recognized with respect to unpaid accrued interest reduced to zero by the net negative adjustment resulting in 2006, and no foreign currency gain or loss is recognized with respect to unpaid accrued interest from 2005, also reduced to zero by the ordinary loss. Therefore, the entire £1400 is treated as a return of principal for the purpose of determining foreign currency gain or loss, and Z recognizes a total foreign currency gain on December 31, 2001, of $1400 [£1400 × ($2.00 − $1.00)].

(F) *Source.* Z has an ordinary loss of $89.31, a capital loss of $5, and a foreign currency gain of $1400. Under paragraph (b)(6) of this section and § 1.1275–4(b)(9)(iv), the $89.31 ordinary loss generally reduces Z's foreign source passive income under section 904(d) and the regulations thereunder. Under paragraph (b)(6) of this section and § 1.865–1(b)(2), the $5 capital loss is sourced by reference to how interest income on the instrument would have been sourced. Therefore, the $5 capital loss generally reduces Z's foreign source passive income under section 904(d) and the regulations thereunder. Under paragraph (b)(6) of this section and § 1.988–4, Z's foreign currency gain of $1400 is sourced by reference to Z's residence and is therefore from sources within the United States.

Example 5. Sale of an instrument with a negative adjustment carryforward— (i) *Facts.* On December 31, 2003, Z, a calendar year U.S. resident taxpayer whose functional currency is the U.S. dollar, purchases at original issue a debt instrument with non-currency contingencies for £1000. All payments of principal and interest with respect to the instrument are denominated in, or determined by reference to, a single nonfunctional currency (the British pound). The debt instrument would be subject to § 1.1275–4(b) if it were denominated in dollars. The debt instrument's comparable yield, determined in British poundsunder §§ 1.988–2(b)(2) and 1.1275–4(b), is 10 percent, compounded annually, and the projected payment schedule for the debt instrument provides for payments of £310 on December 31, 2005 (consisting of a noncontingent payment of £50 and a projected amount of £260) and £990 on December 31, 2006 (consisting of a noncontingent payment of £940 and a projected amount of £50). The debt instrument is a capital asset in the hands of Z. Z does not elect to use the spot-rate convention described in § 1.988–2(b)(2)(iii)(B). The payment actually made on December 31, 2005, is £50. On December 30, 2006, Z sells the debt instrument for £940. The relevant pound/dollar spot rates over the term of the instrument are as follows:

Date	Spot rate (pounds to dollars)
Dec. 31, 2003	£1.00 = $1.00
Dec. 31, 2005	£1.00 = $2.00
Dec. 30, 2006	£1.00 = $2.00

Accrual period	Average rate (pounds to dollars)
Jan. 1–Dec. 31, 2004	£1.00 = $2.00
Jan. 1–Dec. 31, 2005	£1.00 = $2.00
Jan. 1–Dec. 31, 2006	£1.00 = $2.00

(ii) *Treatment in 2004*—(A) *Determination of accrued interest.* Under paragraph (b)(2)(i) of this section, and based on the comparable yield, Z accrues £100 of interest on the debt instrument for 2004 (issue price of £1000 × 10 percent). Under paragraph (b)(3)(i) of this section, Z translates the £100 at the average exchange rate for the accrual period ($2.00 × £100 = $200). Accordingly, Z has interest income in 2004 of $200.

(B) *Adjusted issue price and basis.* Under paragraphs (b)(2)(iii) and (iv) of this section, the adjusted issue price of the debt instrument determined in pounds and Z's adjusted basis in dollars in the debt instrument are increased by the interest accrued in 2004. Thus, on January 1, 2005, the adjusted issue price of the debt instrument is £1100. For purposes of determining Z's dollar basis in the debt instrument, the $1000 basis ($1.00 × £1000 original cost basis) is increased by the £100 of accrued interest, translated at the rate at which interest was accrued for 2004. See paragraph (b)(3)(iii) of this section. Accordingly, Z's adjusted basis in the debt instrument as of January 1, 2005, is $1200 ($1000 + $200).

(iii) *Treatment in 2005*—(A) *Determination of accrued interest.* Under paragraph (b)(2)(i) of this section, and based on the comparable yield, Z's accrued interest for 2005 is £110 (adjusted issue price of £1100 × 10 percent). Under paragraph (b)(3)(i) of this section, the £110 of accrued interest is translated at the average exchange rate for the accrual period ($2.00 × £110 = $220).

(B) *Effect of net negative adjustment.* The payment actually made on December 31, 2005, is £50, rather than the projected £310. Under paragraph (b)(2)(ii) of this section, Z has a net negative adjustment of £260 on December 31, 2005, attributable to the difference between the amount of the actual payment and the amount of the projected payment. Z's accrued interest income of £110 in 2005 is reduced to zero by the net negative adjustment. Under paragraph (b)(3)(ii)(B)(*1*) of this section, the net negative adjustment which reduces the current year's interest is not translated into functional currency. Under paragraph (b)(2)(ii) of this section, Z treats the remaining £150 net negative adjustment as an ordinary loss to the extent of the £100 previously accrued interest in 2004. This £100 ordinary loss is attributable to interest accrued but not paid in the preceding year. Therefore, under paragraph (b)(3)(ii)(B)(*2*) of this section, Z translates the loss into dollars at the average rate for such year (£1 = $2.00). Accordingly, Z has an ordinary loss of $200 in 2005. The remaining £50 of net negative adjustment is a negative adjustment carryforward under paragraph (b)(2)(ii) of this section.

(C) *Adjusted issue price and basis.* Based on the projected payment schedule, the adjusted issue price of the debt instrument on January 1, 2006 is £900, *i.e.*, the adjusted issue price of the debt instrument on January 1, 2005 (£1100), increased by the interest accrued in 2005 (£110), and decreased by the projected amount of the December 31, 2005, payment (£310). See paragraph (b)(2)(iii) of this section. Z's adjusted basis on January 1, 2006 is Z's adjusted basis on January 1, 2005 ($1200), increased by the functional currency amount of interest accrued in 2005 ($220), and decreased by the amount of the payments made in 2005, based solely on the projected payment schedule, (£310). The amount of the projected payment is first attributable to the interest accrued in 2005 (£110), and then to the interest accrued in 2004 (£100), and the remaining amount to principal (£100). The interest component of the projected payment is translated into functional currency at the rates at which it was accrued, and the principal component of the projected payment is translated into functional currency at the spot rate on the date the instrument was issued. See paragraph (b)(3)(iii) of this section. Accordingly, Z's adjusted basis in the debt instrument, following the increase of adjusted basis for interest accrued in 2005 ($1200 + $220 = $1420), is decreased by $520

($220 + $200 + $100 = $520). Z's adjusted basis on January 1, 2006 is therefore, $900.

(D) *Foreign currency gain or loss.* Z will recognize foreign currency gain on the receipt of the £50 payment actually received on December 31, 2005. Based on paragraph (b)(5)(iv) of this section, the £50 payment is attributable to principal since the accrued unpaid interest was completely eliminated by the net negative adjustment. The amount of foreign currency gain is determined, under paragraph (b)(5)(iii) of this section, by reference to the difference between the spot rate on the date the £50 payment was made and the spot rate on the date the debt instrument was issued. Accordingly, Z recognizes $50 of foreign currency gain on the £50 payment. [($2.00—$1.00) × £50 =$50]. Under paragraph (b)(6) of this section and § 1.988–4, Z's foreign currency gain of $50 is sourced by reference to Z's residence and is therefore from sources within the United States.

(iv) *Treatment in 2006*—(A) *Determination of accrued interest.* Under paragraph (b)(2)(i) of this section, and based on the comparable yield, Z accrues £90 of interest on the debt instrument for 2006 (adjusted issue price of £900 × 10 percent). Under paragraph (b)(3)(i) of this section, Z translates the £90 at the average exchange rate for the accrual period ($2.00 × £90 = $180). Accordingly, prior to taking into account the 2005 negative adjustment carryforward, Z has interest income in 2006 of $180.

(B) *Effect of net negative adjustment.* The £50 negative adjustment carryforward from 2005 is a negative adjustment for 2006. Since there are no other positive or negative adjustments, there is a £50 negative adjustment in 2006 which reduces Z's accrued interest income by £50. Accordingly, after giving effect to the £50 negative adjustment carryforward, Z will accrue $80 of interest income. [(£90 − £50) × $2.00 = $80]

(C) *Adjusted issue price.* Under paragraph (b)(2)(iii) of this section, the adjusted issue price of the debt instrument determined in pounds is increased by the interest accrued in 2006 (prior to taking into account the negative adjustment carryforward). Thus, on December 30, 2006, the adjusted issue price of the debt instrument is £990.

(D) *Adjusted basis.* For purposes of determining Z's dollar basis in the debt instrument, Z's $900 adjusted basis on January 1, 2006, is increased by the accrued interest, translated at the rate at which interest was accrued for 2006. See paragraph (b)(3)(iii)(A) of this section. Note, however, that under paragraph (b)(3)(iii)(B) of this section the amount of accrued interest which is reduced as a result of the negative adjustment carryforward, *i.e.*, £50, is treated for purposes of this section as principal, and is translated at the spot rate on the date the instrument was issued, *i.e.*, £1.00 =$1.00. Accordingly, Z's adjusted basis in the debt instrument as of December 30, 2006, is $1030 ($900 + $50 + $80).

(E) *Amount realized.* Z's amount realized in denomination currency is £940, *i.e.*, the amount of pounds Z received on the sale of the debt instrument. Under paragraph (b)(3)(iv)(B)(*1*) of this section, Z's amount realized is first translated by reference to the principal component of basis (including the amount which is treated as principal under paragraph (b)(3)(iii)(B) of this section) and then the remaining amount realized, if any, is translated by reference to the accrued unpaid interest component of adjusted basis. Thus, £900 of Z's amount realized is translated by reference to the principal component of adjusted basis. The remaining £40 of Z's amount realized is treated as principal under paragraph (b)(3)(iii)(B) of this section, and is also translated by reference to the principal component of adjusted basis. Accordingly, Z's amount realized in functional currency is $940. (No part of Z's amount realized is attributable to the interest accrued on the debt instrument.) Z realizes a loss of $90 on the sale of the debt instrument ($1030 basis − $940 amount realized). Under paragraph (b)(4) of this section and § 1.1275–4(b)(8), $80 of the loss is characterized as ordinary loss, and the remaining $10 of loss is characterized as capital loss. Under §§ 1.988–6(b)(6) and 1.1275–4(b)(9)(iv) the $80 ordinary loss is treated as a deduction that is definitely related to the interest income accrued on the debt instrument. Similarly, under §§ 1.988–6(b)(6) and 1.865–1(b)(2) the $10 capital loss is also allocated to the interest income from the debt instrument.

(F) *Foreign currency gain or loss.* Z recognizes foreign currency gain with respect to the £940 he received on the sale of the debt instrument. Under paragraph (b)(5)(iv) of this section, the £940 Z received is attributable to principal (and the amount which is treated as principal under paragraph (b)(3)(iii)(B) of this section). Thus, Z recognizes foreign currency gain on December 31, 2006, of $940. [($2.00 − $1.00) × £940]. Under paragraph (b)(6) of this section and § 1.988–4, Z's foreign currency gain of $940 is sourced by reference to Z's residence and is therefore from sources within the United States.

(d) *Multicurrency debt instruments*—(1) *In general.* Except as provided in this paragraph (d), a multicurrency debt instrument described in paragraph (a)(1)(ii) or (iii) of this section shall be treated as an instrument described in paragraph (a)(1)(i) of this section and shall be accounted for under the rules of paragraph (b) of this section. Because payments on an instrument described in paragraph (a)(1)(ii) or (iii) of this section are denominated in, or determined by reference to, more than one currency, the issuer and holder or holders of the instrument are required to determine the denomination currency of the instrument under paragraph (d)(2) of this section before applying the rules of paragraph (b) of this section.

(2) *Determination of denomination currency*—(i) *In general.* The denomination currency of an instrument described in paragraph (a)(1)(ii) or (iii) of this section shall be the predominant currency of the instrument. Except as otherwise provided in paragraph (d)(2)(ii) of this section, the predominant currency of the instrument shall be the currency with the greatest value determined by comparing the functional currency value of the noncontingent and projected payments denominated in, or determined by reference to, each currency on the issue date, discounted to present value (in each relevant currency), and translated (if necessary) into functional currency at the spot rate on the issue date. For this purpose, the applicable discount rate may be determined using any method, consistently applied, that reasonably reflects the instrument's economic substance. If a taxpayer does not determine a discount rate using such a method, the Commissioner may choose a method for determining the discount rate that does reflect the instrument's economic substance. The predominant currency is determined as of the issue date and does not change based on subsequent events (*e.g.*, changes in value of one or more currencies).

(ii) *Difference in discount rate of greater than 10 percentage points.* This § 1.988–6(d)(2)(ii) applies if no currency has a value determined under paragraph (d)(2)(i) of this section that is greater than 50% of the total value of all payments. In such a case, if the difference between the discount rate in the denomination currency otherwise determined under (d)(2)(i) of this section and the discount rate determined under paragraph (d)(2)(i) of this section with respect to any other currency in which payments are made (or determined by reference to) pursuant to the instrument is greater than 10 percentage points, then the Commissioner may determine the predominant currency under any reasonable method.

(3) *Issuer/holder consistency.* The issuer determines the denomination currency under the rules of paragraph (d)(2) of this section and provides this information to the holders of the instrument in a manner consistent with the issuer disclosure rules of § 1.1275–2(e). If the issuer does not determine the denomination currency of the instrument, or if the issuer's determination is unreasonable, the holder of the instrument must determine the denomination currency under the rules of paragraph (d)(2) of this section. A holder that determines the denomination currency itself must explicitly disclose this fact on a statement attached to the holder's timely filed federal income tax return for the taxable year that includes the acquisition date of the instrument.

(4) *Treatment of payments in currencies other than the denomination currency.* For purposes of applying the

rules of paragraph (b) of this section to debt instruments described in paragraph (a)(1)(ii) or (iii) of this section, payments not denominated in (or determined by reference to) the denomination currency shall be treated as non-currency-related contingent payments. Accordingly, if the denomination currency of the instrument is determined to be the taxpayer's functional currency, the instrument shall be accounted for under § 1.1275–4(b) rather than under this section.

(e) *Instruments issued for nonpublicly traded property—(1) Applicability.* This paragraph (e) applies to debt instruments issued for nonpublicly traded property that would be described in paragraph (a)(1)(i), (ii), or (iii) of this section, but for the fact that such instruments are described in § 1.1275–4(c)(1) rather than § 1.1275–4(b)(1). For example, this paragraph (e) generally applies to a contingent payment debt instrument denominated in a nonfunctional currency that is issued for non-publicly traded property. Generally the rules of § 1.1275–4(c) apply except as set forth by the rules of this paragraph (e).

(2) *Separation into components.* An instrument described in this paragraph (e) is not accounted for using the noncontingent bond method of § 1.1275–4(b) and paragraph (b) of this section. Rather, the instrument is separated into its component payments. Each noncontingent payment or group of noncontingent payments which is denominated in a single currency shall be considered a single component treated as a separate debt instrument denominated in the currency of the payment or group of payments. Each contingent payment shall be treated separately as provided in paragraph (e)(4) of this section.

(3) *Treatment of components consisting of one or more noncontingent payments in the same currency.* The issue price of each component treated as a separate debt instrument which consists of one or more noncontingent payments is the sum of the present values of the noncontingent payments contained in the separate instrument. The present value of any noncontingent payment shall be determined under § 1.1274–2(c)(2), and the test rate shall be determined under § 1.1274–4 with respect to the currency in which each separate instrument is considered denominated. No interest payments on the separate debt instrument are qualified stated interest payments (within the meaning of § 1.1273–1(c)) and the *de minimis* rules of section 1273(a)(3) and § 1.1273–1(d) do not apply to the separate debt instrument. Interest income or expense is translated, and exchange gain or loss is recognized on the separate debt instrument as provided in § 1.988–2(b)(2), if the instrument is denominated in a nonfunctional currency.

(4) *Treatment of components consisting of contingent payments* —(i) *General rule.* A component consisting of a contingent payment shall generally be treated in the manner provided in § 1.1275–4(c)(4). However, except as provided in paragraph (e)(4)(ii) of this section, the test rate shall be determined by reference to the U.S. dollar unless the dollar does not reasonably reflect the economic substance of the contingent component. In such case, the test rate shall be determined by reference to the currency which most reasonably reflects the economic substance of the contingent component. Any amount received in nonfunctional currency from a component consisting of a contingent payment shall be translated into functional currency at the spot rate on the date of receipt. Except in the case when the payment becomes fixed more than six months before the payment is due, no foreign currency gain or loss shall be recognized on a contingent payment component.

(ii) *Certain delayed contingent payments*—(A) *Separate debt instrument relating to the fixed component.* The rules of § 1.1275–4(c)(4)(iii) shall apply to a contingent component the payment of which becomes fixed more than 6 months before the payment is due. For this purpose, the denomination currency of the separate debt instrument relating to the fixed payment shall be the currency in which payment is to be made and the test rate for such separate debt instrument shall be determined in the currency of that instrument. If the separate debt instrument relating to the fixed payment is denominated in nonfunctional currency, the rules of § 1.988–2(b)(2) shall apply to that instrument for the period beginning on the date the payment is fixed and ending on the payment date.

(B) *Contingent component.* With respect to the contingent component, the issue price considered to have been paid by the issuer to the holder under § 1.1275–4(c)(4)(iii)(A) shall be translated, if necessary, into the functional currency of the issuer or holder at the spot rate on the date the payment becomes fixed.

(5) *Basis different from adjusted issue price.* The rules of § 1.1275–4(c)(5) shall apply to an instrument subject to this paragraph (e).

(6) *Treatment of a holder on sale, exchange, or retirement.* The rules of § 1.1275–4(c)(6) shall apply to an instrument subject to this paragraph (e).

(f) *Rules for nonfunctional currency tax exempt obligations described in § 1.1275–4(d)*—(1) *In general.* Except as provided in paragraph (f)(2) of this section, section 1.988–6 shall not apply to a debt instrument the interest on which is excluded from gross income under section 103(a).

(2) *Operative rules.* [RESERVED].

(g) *Effective date.* This section shall apply to debt instruments issued on or after October 29, 2004.

■ **Par. 5.** In § 1.1275–2, paragraph (g)(1) is amended by adding a sentence at the end of the paragraph to read as follows:

§ 1.1275–2 Special rules relating to debt instruments.

* * * * *

(g) * * * (1) * * * See also § 1.988–2(b)(18) for debt instruments with payments denominated in (or determined by reference to) a currency other than the taxpayer's functional currency.

* * * * *

■ **Par. 6.** In § 1.1275–4, paragraph (a)(2)(iv) is revised to read as follows:

§ 1.1275–4 Contingent payment debt instruments.

(a) * * *

(2) * * *

(iv) A debt instrument subject to section 988 (except as provided in § 1.988–6);

* * * * *

PART 602—OMB CONTROL NUMBERS UNDER THE PAPERWORK REDUCTION ACT

■ **Par. 7.** The authority citation for part 602 continues to read as follows:

Authority: 26 U.S.C. 7805.

■ **Par. 8.** Section 602.101(b) adding an entry to the table in numerical order to read as follows:

§ 602.101 OMB Control numbers.

* * * * *

(b) * * *

CFR part or section where identified and described	Current OMB control No.
* * * * *	
1.988–6	1545–1831
* * * * *	

Nancy J. Jardini,
Acting Deputy Commissioner of Services and Enforcement.

Approved: July 16, 2004.

Gregory F. Jenner,
Acting Assistant Secretary of the Treasury.

[FR Doc. 04–19642 Filed 8–27–04; 8:45 am]
BILLING CODE 4830–01–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 150

[USCG–1998–3884]

RIN 1625–AA20 (formerly RIN 2115–AF63)

Deepwater Ports

AGENCY: Coast Guard, DHS.

ACTION: Correcting amendments.

SUMMARY: This document corrects the temporary interim rule with request for comments (FR Doc. 03–32204) published in the **Federal Register** of January 6, 2004 (69 FR 724). The temporary interim rule contained provisions relating to deepwater ports that may remain in effect until October 2006.

DATES: Effective on August 30, 2004.

FOR FURTHER INFORMATION CONTACT: If you have questions on this correction, call Lieutenant Commander Kevin Tone, Vessel and Facility Operating Standards Division (G–MSO–2), Coast Guard, telephone 202–267–0226.

SUPPLEMENTARY INFORMATION:

Background

The temporary interim rule that is the subject of this correction updated Coast Guard regulations governing the license process, the design, construction, and equipment, and the operation of deepwater ports, which are used for the transportation, storage, and further handling of oil or natural gas. The temporary interim rule inadvertently omitted provisions describing the location of the safety zone for the Louisiana Offshore Oil Port (LOOP), as well as areas to be avoided and the anchorage area within the safety zone. Those provisions were first promulgated in 1980 and last updated in 1994; prior to the temporary interim rule they appeared in Annex A to Appendix A, part 150 of the Code of Federal Regulations. The Coast Guard intended no substantive change in the LOOP safety zone requirements, but for stylistic consistency and to clarify their regulatory nature we did intend to set them out in a regulatory section rather than in an annex.

Need for Correction

As published, the temporary interim rule omits text. This omission may prove to be misleading and needs to be corrected.

List of Subjects in 33 CFR Part 150

Harbors, Marine safety, Navigation (water), Occupational safety and health, Oil pollution, Reporting and recordkeeping requirements.

■ Accordingly, 33 CFR part 150 is corrected by making the following correcting amendment:

PART 150—DEEPWATER PORTS: OPERATIONS

■ 1. The authority citation for part 150 continues to read as follows:

Authority: 33 U.S.C. 1231, 1321(j)(1)(C), (j)(5), (j)(6), (m)(2); 33 U.S.C. 1509(a); E.O. 12777, sec. 2; E.O. 13286, sec. 34, 68 FR 10619; Department of Homeland Security Delegation No. 0170.1(70), (73), (75), (80).

■ 2. Add § 150.940 to read as follows:

§ 150.940 Safety zones for specific deepwater ports.

(a) *Louisiana Offshore Oil Port (LOOP):*

(1) The location of the safety zone for LOOP is as described in Table 150.940(A):

TABLE 150.940(A).—SAFETY ZONE FOR LOOP, GULF OF MEXICO

Latitude N	Longitude W
(i) Starting at: 28°55′23″	90°00′37″
(ii) A rhumb line to: 28°53′50″	90°04′07″
(iii) Then an arc with a 4,465 meter (4,883 yard) radius centered at the port's pumping platform complex: 28°53′06″	90°01′30″
(iv) To a point: 28°51′07″	90°03′06″
(v) Then a rhumb line to: 28°50′09″	90°02′24″
(vi) Then a rhumb line to: 28°49′05″	89°55′54″
(vii) Then a rhumb line to: 28°48′36″	89°55′00″
(viii) Then a rhumb line to: 28°52′04″	89°52′42″
(ix) Then a rhumb line to: 28°53′10″	89°53′42″
(x) Then a rhumb line to: 28°54′52″	89°57′00″
(xi) Then a rhumb line to: 28°54′52″	89°59′36″
(xii) Then an arc with a 4,465 meter (4,883 yard) radius centered again at the port's pumping platform complex; (xiii) To the point of starting: 28°55′23″	90°00′37″

(2) The areas to be avoided within the safety zone are:

(i) The area encompassed within a circle having a 600 meter radius around the port's pumping platform complex and centered at:

Latitude N	Longitude W
28°53′06″	90° – 1′30″

(ii) The six areas encompassed within a circle having a 500 meter radius around each single point mooring (SPM) at the port and centered at:

Latitude N	Longitude W
28°54′12″	90°00′37″
28°53′16″	89°59′59″
28°52′15″	90°00′19″
28°51′45″	90°01′25″
28°52′08″	90°02′33″
28°53′07″	90°03′02″

(3) The anchorage area within the safety zone is an area enclosed by the rhumb lines joining points at:

Latitude N	Longitude W
28°52′21″	89°57′47″
28°54′05″	89°56′38″
28°52′04″	89°52′42″
28°50′20″	89°53′51″
28°52′21″	89°57′47″

Dated: August 20, 2004.

Joseph J. Angelo,

Director of Standards, Marine Safety, Security, and Environmental Protection, Coast Guard.

[FR Doc. 04–19731 Filed 8–27–04; 8:45 am]

BILLING CODE 4910–15–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[PA 138–4230; FRL–7807–3]

Approval and Promulgation of Air Quality Implementation Plans; Pennsylvania; Federally Enforceable State Operating Permit Program for Allegheny County

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA is approving a revision to the Commonwealth of Pennsylvania's State Implementation Plan (SIP). This SIP revision was submitted by the Pennsylvania Department of the Environment (DEP) on behalf of the Allegheny County Health Department (ACHD). The SIP revision consists of the Federally enforceable state operating permit (FESOP) program adopted by the ACHD. The intent of this revision is to establish a SIP-approved FESOP program to be implemented by the ACHD for sources located in Allegheny County, Pennsylvania. EPA is approving this revision in accordance with the requirements of the Clean Air Act (CAA).

EFFECTIVE DATE: This final rule is effective on September 29, 2004.

ADDRESSES: Copies of the documents relevant to this action are available for public inspection during normal business hours at the Air Protection Division, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103; the Air and Radiation Docket and Information Center, U.S. Environmental Protection Agency, 1301 Constitution Avenue, NW., Room B108, Washington, DC 20460; the Pennsylvania Department of Environmental Protection, Bureau of Air Quality, P.O. Box 8468, 400 Market Street, Harrisburg, Pennsylvania 17105; and the Allegheny County Health Department, Bureau of Environmental Quality, Division of Air Quality, 301 39th Street, Pittsburgh, Pennsylvania 15201.

FOR FURTHER INFORMATION CONTACT: Paul Arnold, (215) 814–2194, or by e-mail at *arnold.paul@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. Background

On June 26, 2003 (68 FR 37973), EPA published a notice of direct final rulemaking (DFR) approving a revision to the Allegheny County (the County) portion of the Commonwealth of Pennsylvania's SIP. The formal SIP revision was submitted by the Pennsylvania DEP on behalf of the ACHD on November 9, 1998, as amended on March 1, 2001. The revision consists of the County's regulation to implement a program which provides for the procedural and legal issuance of federally enforceable state operating permits (FESOPs) for sources of air pollution located in Allegheny County.

On June 26, 2003 (68 FR 37993), EPA also published a companion notice of proposed rulemaking (NPR) approving this SIP revision. It was stated in the June 26, 2003 DFR and NPR notices that this SIP revision would be effective on August 25, 2003 without further notice unless EPA received adverse written comments by July 28, 2003. If adverse comments were submitted, the final rule approving the SIP revision would be withdrawn. On July 28, 2003, adverse comments were submitted. On September 26, 2003 (68 FR 55469), EPA withdrew the final rule approving ACHD's FESOP program.

II. Pennsylvania's SIP Revision for Allegheny County

EPA has evaluated the ACHD's operating permit program and determined that it satisfies the five criteria for approval of a FESOP program for purposes of limiting a source's potential to emit (PTE). *See* FR 27274, 27281–27284, June 28, 1989. EPA is therefore approving the Pennsylvania DEP's request that the ACHD's regulation be made part of the Pennsylvania SIP under section 110 of the CAA, 42 U.S.C. 7410. The Pennsylvania DEP also requested approval of ACHD's program pursuant to section 112(l) of the CAA, 42 U.S.C. 7412(l). EPA determined that the County's program is consistent with the objectives and requirements of section 112, 42 U.S.C. 7412, which governs the regulation of hazardous air pollutants (HAP). It enables sources to apply for federally enforceable limits on their PTE to avoid major source classification under section 112. The details of EPA's evaluation of the ACHD's regulation are provided in the notice published on June 26, 2003 (68 FR 37973) and shall not be restated here.

Today's action does not affect the ACHD's separate title V operating permit program codified in Allegheny County Health Department, Rules and Regulations, Article XXI, Part C, which was developed by the ACHD and approved by EPA under title V of the CAA (title V), 42 U.S.C. 7661–7661f, and EPA's implementing regulations in 40 CFR part 70 (part 70). *See* 66 FR 55112, Nov. 1, 2001. The title V operating permit program applies to major stationary sources of air pollution and certain other sources. By contrast, a FESOP program may be and often is used to establish emission standards and other source-specific regulatory requirements for stationary sources of air pollution that enable them to remain "synthetic minor" sources that are not subject to major source requirements, including title V permitting requirements. Thus, the ACHD's FESOP program generally will apply to sources that are not covered by the ACHD's title V program.[1]

III. Public Comments and EPA Responses

On July 28, 2003, adverse comments were submitted to EPA regarding its proposed approval of ACHD's FESOP

[1] In the event that a source covered by a FESOP becomes a major source subject to title V permitting requirements, the emission limits and other requirements set forth in the FESOP would be incorporated into the title V operating permit as required by title V, part 70 and the ACHD's corresponding authorities.

program. A summary of those comments and EPA's responses follows.

Comments: The commentor states that it is fully aware of the many positive attributes of the Allegheny County Heath Department's Air Enforcement and Compliance program, and that as a general rule supports delegating to the County enforcement authority for air quality regulatory implementation. The commentor, however, states its opposition to full approval of the County's FESOP program at this time is based on concern over the ability of the ACHD to carry out the regulatory tasks set forth therein. The commentor first maintains that the ACHD's FESOP program must, in addition to satisfying EPA's five criteria for approval of a FESOP program (*see* 54 FR 27274, 27281–27284), meet the minimum requirements for approvable State or local title V program submissions listed in 40 CFR 70.4(b). In particular, the commentor cites the requirement that a part 70 program submission include "* * * a statement that adequate personnel and funding have been made available to develop, administer, and enforce the program" [40 CFR 70.4(b)(8)]. The commentor states that the requirements of § 70.4(b) are binding on "partial programs" such as ACHD's by virtue of § 70.4(c)(2) as many of the sources which will obtain FESOP's under the ACHD's program will do so for the express purpose of avoiding Title V applicability. The commentor therefore believes that a state or local FESOP program approval determination must also take into account the elements of § 70.4.

The commentor also expresses concern as to whether the ACHD satisfies the requirement for approval of a FESOP program which states that all limitations, controls and requirements imposed in a permit must be permanent, quantifiable and enforceable as a practical matter. The commentor asserts that if an enforcement and compliance program is not performing at a satisfactory level, then it is not accurate to represent that permits are enforceable "as a practical matter." As a basis for this comment, the commentor cites to a report entitled "Review of Allegheny County Health Department's Air Enforcement & Compliance Program" issued by EPA Region III's Office of Air Enforcement and Permits Review in June, 2003. The commentor discusses the report's findings with respect to: the adequacy of the legal resources available to the ACHD to ensure adequate enforcement; the apparent lack of enforcement activity by the ACHD; the ACHD's failure to fully comply with EPA reporting requirements, which the commentor asserts is critical to EPA's and the public's ability to oversee the ACHD's enforcement activities; the ACHD's organizational structure; and the lack of the ACHD's follow-up on stack tests. The commentor also incorporates by reference the additional problem areas identified by EPA in the report.

In addition, the commentor raises two comments concerning EPA's approval of the Pennsylvania DEP's request that EPA grant the ACHD authority pursuant to section 112(l) of the CAA to limit sources' potential to emit HAP through the issuance of FESOPs. The commentor asserts that two of the section 112(l) requirements for EPA approval of a FESOP program for HAP purposes "provide a challenge" in the case of the ACHD's program. First, the commentor asserts that EPA's conclusion that the ACHD has adequate resources due to permit fees "seems questionable in light of EPA's own final report on ACHD's enforcement and compliance program." Second, the commentor asserts that shortcomings in the ACHD's program, such as the "dearth of enforcement, failure to identify violators, and failure to supply [Pennsylvania] DEP and EPA with all necessary records from which to discern facility compliance * * * run contrary to" section 112(l)(5)'s requirement that a program is "otherwise likely to satisfy the objectives of the Act."

Rather than proceed with full approval, the commentor comments that EPA could grant a conditional approval of the County's FESOP program. The commentor urges EPA to impose conditions upon ACHD, that would provide for a twelve-month or longer period, as deemed appropriate by EPA, within which to demonstrate substantial improvement across a range of areas in ACHD's air enforcement and compliance program.

EPA's Response: EPA disagrees with the commentor's first assertion that "* * * a statement that adequate personnel and funding have been made available to develop, administer, and enforce the program" as required by 40 CFR 70.4(b)(8) is required in order for EPA to approve the Commonwealth of Pennsylvania's request that ACHD's FESOP regulation be made part of the Pennsylvania SIP.—See *Wall* v. *EPA*, no. 00–4010, slip op. at 21–24 (6th Cir. September 11, 2001). Although Clean Air Act sections 110(a)(2)(E) and 110(a)(2)(C) do contain these provisions, section 110(a)(2)(H) is the statutory provision which governs requirements for individual plan revisions which States may be required to submit from time to time. There are no cross-references in section 7410(a)(2)(H) to either 7410(a)(2)(E) or 7410(a)(2)(C). Therefore, EPA concludes that Congress did not intend to require States to submit an analysis of adequate funding and enforcement with each subsequent and individual SIP revision submitted under the authority of section 110(a)(2)(H). Once EPA approves a State's SIP as meeting section 110(a)(2), EPA is not required to reevaluate that SIP for each new revision to the plan submitted to meet requirements in other sections of the Act. The Commonwealth of Pennsylvania had previously received approval of its 110(a)(2) SIPs. See discussion in the Cincinnati redesignation of this issue (65 FR 37879, 37881–37882) (June 19, 2000). The sixth circuit has upheld EPA's interpretation in *Wall* v. *EPA*, supra, at 20–21. Therefore, EPA concludes that Congress did not intend to require States to submit an analysis of adequate funding and enforcement with each subsequent and individual SIP revision submitted under the authority of section 110(a)(2)(H).

EPA further disagrees that the report entitled "Review of Allegheny County · Health Department's Air Enforcement & Compliance Program" is grounds to determine that the ACHD's FESOP regulation fails to satisfy the criteria for approval of a FESOP program as a revision to the Pennsylvania SIP. In its previous notices, 68 FR 37973 and 68 FR 37993, EPA established that ACHD's regulation satisfies all five criteria used to determine that a regulation has the necessary components to provide the procedural and legal basis for the issuance of federally enforceable state operating permits. The level and performance of Allegheny County's enforcement as a whole, while perhaps affecting Allegheny's permit issuance program, is not the primary focus of this revision to the Pennsylvania SIP. Rather the primary focus is the establishment of regulation for the Allegheny County portion of the Pennsylvania SIP for a state run permit program which is federally enforceable.

EPA also disagrees with the commentor's assertion that the ACHD's FESOP program is a "partial program" under 40 CFR 70.4(c)(2). The requirements of 40 CFR 70.4(b), including the requirement of 40 CFR 70.4(b)(8), are minimum requirements for title V operating permit programs that EPA approves pursuant to title V and part 70. However, FESOP programs are not title V programs and are not subject to the requirements of title V and part 70. As EPA explained in the June 28, 1989 **Federal Register** notice, FESOP programs are required to meet

five criteria for EPA approval, and they are approved as part of a SIP pursuant to EPA's authority under title I of the Act, including section 110. The commentor argues that the ACHD's FESOP program is a "partial program" under 40 CFR 70.4(c)(2), because many sources will obtain FESOPs in order to avoid title V applicability. However, the commentor misunderstands the nature of a partial program under title V. It is true that the ACHD's title V operating permit program is a partial program. Yet, in the case of the ACHD's title V operating permit program, the term "partial" is a geographic reference which indicates that the ACHD is the title V permitting authority for sources in Allegheny County, while the Pennsylvania DEP or another local agency is the title V permitting authority elsewhere in Pennsylvania. See 66 FR 55112, Nov. 1, 2001. This means that all of the title V sources in Allegheny County—in other words, all of the sources in the County that are subject to title V permitting requirements—are required to obtain a title V operating permit from the ACHD. As indicated previously, the ACHD's FESOP program approved today will be a separate permitting program that is part of the SIP. It will not be used to fulfill the requirements of title V and part 70, and therefore it is not subject to those requirements. Moreover, sources that lawfully obtain FESOPs to avoid title V applicability are not subject to the title V program so long as they operate in compliance with their FESOPs.

In addition, EPA's "ACHD 105 Grant Midyear Report Executive Summary," dated May 24, 2004, identifies significant improvements in performance and personnel resources since the issuance of the 2003 report. The 105 Grant Midyear Report Executive Summary states, "The ACHD is to be commended for its efforts to address the issues raised in EPA's 'Review of Allegheny County Health Department's Air Enforcement & Compliance Program' report. Since the issuance of the June 2003 report, the ACHD has implemented several of its recommendations. The most notable being the hiring of the Chief of the Enforcement Section and an attorney. The ACHD has identified and addressed four new HPVs [High Priority Violators] in conformance with the *Timely and Appropriate to High Priority Violators Policy.* Additionally, the ACHD provides copies of NOVs [Notices of Violations] and orders pertaining to HPVs in a timely matter." EPA believes ACHD has made considerable progress in addressing the concerns raised in the 2003 ACHD Air Enforcement and Compliance Report.

Finally, for the reasons stated in this notice and in our June 26, 2003 DFR and NPR notices, EPA disagrees with the commentor's assertions that EPA should grant conditional approval of this SIP revision. There are no regulatory revisions or additions that need to be made to the ACHD's regulation. EPA has determined that Allegheny County's operating permit regulation, as submitted by the Commonwealth of Pennsylvania, meets the five criteria for full approval as a revision to the Pennsylvania SIP and, with respect to HAP, meets the requirements of section 112(l) of the CAA.

IV. Final Action

EPA is approving the SIP revision that was submitted by the Pennsylvania DEP on behalf of the ACHD on November 9, 1998, as amended on March 1, 2001. The revision consists of the ACHD's regulation which provides for the procedural and legal issuance of federally enforceable state operating permits (FESOPs) for sources of air pollution located in Allegheny County.

V. Statutory and Executive Order Reviews

A. General Requirements

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this action is not a "significant regulatory action" and therefore is not subject to review by the Office of Management and Budget. For this reason, this action is also not subject to Executive Order 13211, "Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use" (66 FR 28355, May 22, 2001). This action merely approves state law as meeting Federal requirements and imposes no additional requirements beyond those imposed by state law. Accordingly, the Administrator certifies that this rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). Because this rule approves pre-existing requirements under state law and does not impose any additional enforceable duty beyond that required by state law, it does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4). This rule also does not have tribal implications because it will not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes, as specified by Executive Order 13175 (65 FR 67249, November 9, 2000). This action also does not have Federalism implications because it does not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132 (64 FR 43255, August 10, 1999). This action merely approves a state rule implementing a Federal standard, and does not alter the relationship or the distribution of power and responsibilities established in the Clean Air Act. This rule also is not subject to Executive Order 13045 "Protection of Children from Environmental Health Risks and Safety Risks" (62 FR 19885, April 23, 1997), because it is not economically significant. In reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the Clean Air Act. In this context, in the absence of a prior existing requirement for the State to use voluntary consensus standards (VCS), EPA has no authority to disapprove a SIP submission for failure to use VCS. It would thus be inconsistent with applicable law for EPA, when it reviews a SIP submission, to use VCS in place of a SIP submission that otherwise satisfies the provisions of the Clean Air Act. Thus, the requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) do not apply. This rule does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

B. Submission to Congress and the Comptroller General

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

C. Petitions for Judicial Review

Under section 307(b)(1) of the Act, 42 U.S.C. 7607(b)(1), petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by October 29, 2004. Filing a petition for reconsideration by the Administrator of this final rule approving ACHD's regulation for a FESOP program does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in civil or criminal enforcement proceedings. (See section 307(b)(2), 42 U.S.C. 7607(b)(2).)

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Carbon monoxide, Incorporation by reference Intergovernmental relations, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides, Volatile organic compounds.

Dated: August 18, 2004.

Richard J. Kampf,

Acting Regional Administrator, Region III.

PART 52—[AMENDED]

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

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

Subpart NN—Pennsylvania

■ 2. Section 52.2020 is amended by adding paragraph (c)(209) to read as follows:

§ 52.2020 Identification of plan.

* * * * *

(c) * * *

(209) Revisions for a federally enforceable state operating permit program applicable in Allegheny County, Pennsylvania submitted on November 9, 1998 and March 1, 2001 by the Pennsylvania Department of Environmental Protection on behalf of the Allegheny County Health Department:

(i) Incorporation by reference.

(A) Letters of November 9, 1998 and March 1, 2001 from the Pennsylvania Department of Environmental Protection, on behalf of the Allegheny County Health Department, transmitting a federally enforceable state operating permit program.

(B) Addition of the following Allegheny County Health Department Rules and Regulations, Article XXI Air Pollution Control:

(*1*) Regulation 2101.05, Regulation 2103.12—effective March 31, 1998.

(*2*) Regulation 2103.01, Regulation 2103.11, Regulation 2103.13, Regulation 2103.15—effective October 20, 1995.

(*3*) Regulation 2103.14—effective January 12, 2001.

(ii) Additional Material.—Remainder of the State submittal pertaining to the revisions listed in paragraph (c)(209)(i) of this section.

[FR Doc. 04–19715 Filed 8–27–04; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[Region II Docket No. R02–OAR–2004–NJ–0002, FRL–7807–6]

Approval and Promulgation of Implementation Plans; New Jersey; Revised Motor Vehicle Transportation Conformity Budgets

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA is approving a revision to the New Jersey State Implementation Plan (SIP) transportation conformity budgets for carbon monoxide and ozone precursors. These budgets are being revised to reflect updated modeling estimates, as well as updated vehicle registration data. The intended effect of this action is to approve a SIP revision that will help the State continue to maintain the carbon monoxide National Ambient Air Quality Standards (NAAQS) and to continue progress in attaining the 1-hour NAAQS for ozone in the Northern New Jersey-New York-Long Island nonattainment area (NAA).

DATES: This rule will be effective August 30, 2004.

ADDRESSES: Copies of the State submittal(s) are available at the following addresses for inspection during normal business hours:

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

Environmental Protection Agency, Air and Radiation Docket and Information Center, Air Docket (6102), 401 M Street, SW., Washington, DC 20460.

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

FOR FURTHER INFORMATION CONTACT: Reema Persaud, Air Programs Branch, Environmental Protection Agency, 290 Broadway, 25th Floor, New York, NY 10007–1866, (212) 637–4249.

SUPPLEMENTARY INFORMATION:

Table of Contents

I. Background

On June 28, 2004 (69 FR 36035), EPA published a notice of proposed rulemaking regarding a SIP revision submitted by the State of New Jersey for its portions of the two severe ozone NAAs—the New York-Northern New Jersey-Long Island Area and the Philadelphia-Wilmington-Trenton Area. For purposes of this action, these areas will be referred to as the Northern New Jersey NAA and the Trenton NAA, respectively. The proposal also addressed statewide revisions to the CO maintenance plan.

The SIP revision was proposed under a procedure called parallel processing, whereby EPA proposes a rulemaking action concurrently with a state's procedures for amending its regulations. The proposed SIP revision was initially submitted to EPA on March 15, 2004 and the final SIP revision was formally submitted on May 21, 2004. A detailed description of New Jersey's submittal and EPA's rationale for the proposed action were presented in the June 28, 2004 notice of proposed rulemaking and will not be restated here.

New Jersey made one administrative change from the proposal based on a comment they received. The written comment suggested that carbon monoxide budgets for all of the unclassified areas contained in Appendix I of the State's Proposed SIP submittal be included in tables within the main document. The May 21, 2004 document submitted by the State incorporated this change. Table 1 in this final approval notice incorporates the unclassified area budgets previously contained in Appendix I of the State's proposal.

II. Comment

EPA received one comment on the June 28, 2004 proposal. The comment was submitted on July 28, 2004. The commentor stated a general opposition which did not address a specific aspect of the proposed plan.

EPA Response: EPA requires the use of the most recent MOBILE model when performing transportation conformity

analyses and in order to perform these analyses the best available data must also be used. New Jersey submitted these new budgets to meet this requirement. These new budgets will enable state and local governments to more accurately plan transportation projects and ensure that ambient air quality is attained.

III. What Are the Details of EPA's Specific Actions?

A. Emission Inventories and Budgets Revised With MOBILE6

New Jersey's May 21, 2004 SIP revision contained revised motor vehicle emissions budgets recalculated using MOBILE6 and updated motor vehicle registration data. The carbon monoxide (CO) budgets for North Jersey Transportation Planning Authority (NJTPA), as well as South Jersey Transportation Planning Organization (SJTPO) and Delaware Valley Regional Planning Commission (DVRPC), were updated using MOBILE6 modeling. For the analysis years and other conditions of the CO budgets the MOBILE6 model predicts significantly greater CO emissions than MOBILE5. However, the CO air quality monitors reflect that actual emission and the monitoring trends and emission trends over time are still downwards so the updates to the CO budgets do not affect the conclusion of the maintenance plans for each CO maintenance area.

VOC and NO_X budgets were also updated for the NJTPA because of a significant change in planning assumptions involving vehicle registration information. An analysis was performed that compared these updated budgets in MOBILE6 to MOBILE5 based budgets that were representative of the one-hour ozone attainment demonstration. The analysis demonstrated that the updated budgets continue to support predicted achievement of rate of progress and projected attainment of the one-hour ozone NAAQS. EPA is approving these budgets as part of New Jersey's SIP.

Table 1 below summarizes the revised Reasonable Further Progress (RFP) and attainment year motor vehicle emissions inventories statewide and by nonattainment area in tons per day (tpd).

TABLE 1.—NEW JERSEY MOTOR VEHICLE EMISSIONS BUDGETS

	CO emissions (tons per winter day)			VOC emissions (tons per ozone day)		NO_X emissions (tons per ozone day)	
	1997	2007	2014	2005	2007	2005	2007
North Jersey Transportation Planning Authority (NJTPA).	[1] 1550.	[1] 783.39 Monmouth Co. 231.55 Morris Co. 244.05 Middlesex Co. 244.99 Somerset Co. 135.92 Ocean Co. 126.79	605.63	[2] 148.27	[2] 125.82	[2] 253.06	[2] 198.34
South Jersey Transportation Planning Organization (SJTPO).	[3] NA	Atlantic Co. 91.68 Salem Co. 31.99	NA	NA	NA	NA	NA
Delaware Valley Regional Planning Commission (DVRPC).	NA	Burlington Co. 170.43 Camden Co. 149.73 Mercer Co. 128.49	NA	NA	NA	NA	NA

[1] For Passaic, Bergen, Essex, Hudson and Union counties.
[2] For all counties within the MPO.
[3] NA—Budget revisions not applicable.

IV. Conclusions

EPA is taking final action to approve New Jersey's May 21, 2004 SIP revision. In accordance with the parallel processing procedures, EPA has evaluated New Jersey's final SIP revision submitted on May 21, 2004, and finds that no substantial changes were made from the proposed SIP revision submitted on March 15, 2004. The submittal revises New Jersey's transportation conformity budgets for CO and ozone precursors based on MOBILE6 modeling, which incorporated 2002 vehicle registration data. The updates to the CO budgets do not affect the continued maintenance of the CO NAAQS for each CO maintenance area. The updated VOC and NO_X budgets continue to support the predicted achievements of the rate of progress and the projected attainment of the 1-hour ozone NAAQS for Northern New Jersey/NewYork City/Long Island nonattainment area by the attainment date of 2007.

V. Statutory and Executive Order Reviews

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

any additional enforceable duty beyond that required by State law, it does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4).

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

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

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

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by October 29, 2004. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects in 40 CFR Part 52

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

Dated: August 18, 2004.

Jane M. Kenny,

Regional Administrator, Region 2.

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

PART 52—[AMENDED]

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

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

Subpart FF—New Jersey

■ 2. Section 52.1581 is amended by adding paragraph (d) to read as follows:

§ 52.1581 Control strategy: Carbon monoxide.

* * * * *

(d) The 1997, 2007, and 2014 carbon monoxide conformity emission budgets for five counties in the New York/Northern New Jersey/Long Island carbon monoxide maintenance area and ten other counties representing other carbon monoxide maintenance areas included in New Jersey's May 21, 2004 SIP revision are approved.

■ 3. Section 52.1582 is amended by adding paragraph (j) to read as follows:

§ 52.1582 Control strategy and regulations: Ozone.

* * * * *

(j)(1) The revised 1997, 2005, 2007 and 2014 motor vehicle emission inventories calculated using MOBILE6 included in New Jersey's May 21, 2004 State Implementation Plan revision is approved.

(2) The 2005 conformity emission budgets for the New Jersey portion of the Philadelphia/Wilmington/Trenton nonattainment area and the 2005 and 2007 conformity emission budgets for the New Jersey portion of the New York/Northern New Jersey/Long Island nonattainment area included in New Jersey's May 21, 2004 State Implementation Plan revision are approved.

[FR Doc. 04–19714 Filed 8–27–04; 8:45 am]
BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 58

[Docket # ID–04–003a; FRL–7801–6]

Changing the Ozone Monitoring Season In Idaho From April Through October to May Through September

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: Currently the ozone monitoring season for Idaho is April through October. Based on the ozone monitoring season in adjacent states with similar climatology, and analysis of existing ozone monitoring data collected in Boise, EPA is approving a change in the ozone monitoring season for Idaho to the months of May through September.

DATES: This direct final rule is effective October 29, 2004, unless EPA receives adverse comments by September 29, 2004. If relevant adverse comment is received, EPA will publish a timely withdrawal of the rule in the **Federal Register** informing the public that the rule will not take effect.

ADDRESSES: Submit your comments, identified by Docket ID No. ID–04–003, by one of the following methods:

- Federal eRulemaking Portal: *http://www.regulations.gov*. Follow the on-line instructions for submitting comments.
- E-mail: *r10.aircom@epa.gov*.
- Fax: (206) 553–0110.
- Mail: Keith A. Rose, Office of Air, Waste and Toxics, Environmental Protection Agency Region 10, Mail code: OAQ–107, 1200 Sixth Ave., Seattle, Washington 98101.

• Hand Delivery: Environmental Protection Agency Region 10, Attn: Keith A. Rose, 9th Floor, 1200 Sixth Ave., Seattle, Washington 98101. Such deliveries are only accepted during normal hours of operation, and special arrangements should be made for deliveries of boxed information.

Instructions: Direct your comments to Docket ID No. ID–04–003. EPA's policy is that all comments received will be included in the public docket without change, including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through regulations.gov, or e-mail. The Federal regulations.gov 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 regulations.gov, your e-mail address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD–ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses.

Docket: Docket materials are publicly available in hard copy at the Office of Air, Waste and Toxics, Environmental Protection Agency, Mail code: OAQ–107, 1200 Sixth Ave., Seattle, Washington 98101, open from 8 a.m.–4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number is (206) 553–1949.

Comments may be submitted either by mail or electronically. Written comments should be mailed to Keith A. Rose, Office of Air, Waste and Toxics (OAQ–107), EPA Region 10, 1200 Sixth Avenue, Seattle, Washington, 98101. Electronic comments should be sent either to *r10.aircom@epa.gov* or to *http://www.regulations.gov*, which is an alternative method for submitting electronic comments to EPA. To submit comments, please follow the detailed instructions described in the **SUPPLEMENTARY INFORMATION** section, part I, General Information. Copies of the documents relevant to this action are available for public inspection during normal business hours at the EPA, Region 10, Office of Air Waste and Toxics, 1200 Sixth Avenue, Seattle, WA.

FOR FURTHER INFORMATION CONTACT: Keith A. Rose, State and Tribal Programs Unit, Office of Air, Waste and Toxics, (OAQ–107), EPA Region 10, 1200 Sixth Avenue, Seattle WA. 98101, telephone number: (206) 553–1949, or e-mail address at *rose.keith@epa.gov*.

SUPPLEMENTARY INFORMATION: Throughout this document, wherever "we," "us," or "our" is used, we mean the EPA. Please note that if EPA receives relevant adverse comment on an amendment, paragraph or section of this rule and if that provision may be severed from the remainder of the rule, EPA may adopt as final those provisions of the rule that are not the subject of a relevant adverse comment.

I. General Information

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

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

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

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

ii. Follow directions—The Agency may ask you to respond to specific questions or organize comments by referencing a CFR part or section number.

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

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

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

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

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

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

II. Purpose of This Action

The purpose of this action is to change the ozone monitoring season in Idaho from April through October to May through September.

III. Justification for This Action

Currently the ozone monitoring season for Idaho, as identified in 40 CFR 58, Appendix D, section 2.5, is April through October. The EPA guidance titled, "Guideline for Selecting and Modifying the Ozone Monitoring Season Based on an 8-Hour Ozone Standard" states that the ozone season should extend for months for which the maximum 8-hour ozone reading reaches the 8-hour standard (0.08 ppm). The guideline also states that the most recent six years of data should be used to prepare a histogram of maximum ozone concentrations by month to compare to the 8-hour standard. However, if a state which has not collected ozone data, and changes in the ozone monitoring season have been observed for States with similar climatology, then those changes in the ozone monitoring season should also be implemented for the State that does not collect adequate ozone data.

States adjacent to Idaho with similar climatology include Montana, Oregon, Utah, and Washington. According to 40 CFR 58, Appendix D, section 2.5, the ozone monitoring seasons identified for these states are shown in Table 1:

TABLE 1.—OZONE MONITORING SEASONS BY STATE

State	Monitoring season
Montana	June–September.
Utah	May–September.
Oregon	May–September.
Washington	May–September.

The longest ozone monitoring season for these states is May through September. This shows that the monitoring season for Idaho should be changed to May through September to be consistent with those states with similar climatology.

Although Idaho itself has not gathered sufficient ozone data to support a

change in monitoring seasons, EPA has evaluated the data which has been gathered in the state to ensure any changes in the ozone monitoring season based on the guidance will be consistent with information that has been collected.The only ozone monitoring site in Idaho where six years of ozone data exists is in the Craters of the Moon Monument, which is a Class 1 area. The purpose of the Craters of the Moon ozone site is to measure ozone trends and to track degradation of air quality in a Class 1 area. This monitor has not measured any exceedances of the ozone standard since monitoring began at this site in 1992. However, the Craters of the Moon site is not representative of ozone concentrations which occur in highly populated areas of Idaho, such as in the Treasure Valley, where the state capital of Boise is located. Ozone monitoring was initiated in the Treasure Valley in May 2000 by the Idaho Department of Environmental Quality (IDEQ). As an indication of how the Treasure Valley ozone concentrations compare to the 8-hour ozone standard (0.08 ppm), IDEQ compared the maximum 8-hour ozone concentration for each month during 2001, 2002, and 2003 to the ozone standard. The results of this comparison demonstrate that the ozone concentrations exceed 80% of the standard, but do not exceed the standard, only during the months of May through September. Based on this analysis, which conservatively compares the monitoring data to 80% of the standard, it is evident that ozone concentrations are only likely to exceed the 8-hour standard in the Treasure Valley during the months of May through September.

IV. Final Action

In this action, EPA is approving a change in the ozone monitoring season in Idaho. The reference to the ozone monitoring season for Idaho found in 40 CFR part 58, Appendix D, section 2.5, will be changed from April through October to May through September.

V. Statutory and Executive Order Reviews

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this action is not a "significant regulatory action" and therefore is not subject to review by the Office of Management and Budget. For this reason, this action is also not subject to Executive Order 13211, "Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use" (66 FR 28355, May 22, 2001). This action merely changes the ozone monitoring season for Idaho which appears in 40 CFR Part 58, Appendix D, section 2.5. Accordingly, the Administrator certifies that this rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*).

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

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by October 29, 2004. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects in 40 CFR Part 58

Environmental protection, Air pollution control, Intergovernmental relations, Reporting and recordkeeping requirements.

Dated: July 15, 2004.

Mike Gearheard,

Acting Regional Administrator, Region 10.

■ Part 58, chapter I, title 40 of the Code of Federal Regulations is amended as follows:

PART 58—[AMENDED]

■ 1. The authority citation for part 58 continues to read as follows:

Authority: 42 U.S.C. 7410, 7601(a), 7613, and 7619.

■ 2. In Appendix D section 2.5 the table entitled "Ozone Monitoring Season by State" is amended by revising the entry for "Idaho" to read as follows:

Appendix D to Part 58—Network Design for State and Local Air Monitoring Stations (SLAMS), National Air Monitoring Stations (NAMS), and Photochemical Assessment Monitoring Stations (PAMS).

* * * * *

2.5 * * *

OZONE MONITORING SEASON BY STATE

State	Begin month	End month
* * * * *		
Idaho	May	September.
* * * * *		

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[FR Doc. 04–19728 Filed 8–27–04; 8:45 am]
BILLING CODE 6560–50–P

Proposed Rules

Federal Register
Vol. 69, No. 167
Monday, August 30, 2004

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

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2004–18815; Airspace Docket No. 04–AWP–2]

Modification of Class D and Class E Airspace; Prescott, AZ

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to modify the Class D and Class E surface areas of Ernest A. Love Field (PRC) in Prescott, AZ. A review of airport operations and airspace has made this proposed action necessary. This action would modify the PRC Class D and Class E surface areas to include airspace extending upward from the surface to and including 7,500 feet MSL within a 6-mile radius of Ernest A. Love Field.

DATES: Comments must be received on or before October 14, 2004.

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–2004–18815/ Airspace Docket No. 04–AWP–2, at the beginning of our 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 dispositions 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.

An informal docket may also be examined during normal business hours at the office of Western Terminal Operations, Federal Aviation Administration, at 15000 Aviation Boulevard, Lawndale, California 90261.

FOR FURTHER INFORMATION CONTACT: Jeri Carson, Airspace Branch, Western Terminal Operations, at (310) 725–6611.

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 the comments a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket No. FAA–2004–18815/Airspace Docket No. 04–AWP–2." The postcard will be date/time stamped and returned to the commenter.

Availability of NPRM

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 Documents 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 document numbers for this notice. Persons interested in being placed on a mailing list for future NPRMs 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 procedures.

The Proposal

The FAA is considering an amendment to 14 CFR part 71 to modify the Class D and Class E surface areas at Ernest A. Love Field (PRC) in Prescott, AZ. A review of airspace and airport operations has made this proposed action necessary. This action would modify the PRC Class D and Class E surface areas to include airspace extending upward from the surface to and including 7,500 feet MSL within a 6-mile radius of Ernest A. Love Field. The intended effect of this proposal is to provide adequate controlled airspace for aircraft operations at Prescott, AZ. Class D airspace designations are published in paragraph 5000 and Class E surface areas are published in paragraph 6002, both in FAA Order 7400.9L dated September 2, 2003, and effective September 16, 2003, 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.

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. Therefore, this proposed regulation—(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 proposed rule would not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

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; 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 the Federal Aviation Administration Order 7400.9L, Airspace Designations and Reporting Points, dated September 2, 2003, and effective September 16, 2003, is amended as follows:

Paragraph 500. Class D Airspace

* * * * *

AWP AZ D Prescott, AZ [Revised]

Prescott, Ernest A. Love Field, AZ
(Lat. 35°39′06″ N, long. 112°25′18″ W)

That airspace extending upward from the surface to and including 7,500 feet MSL within a 6-mile radius of Ernest A. Love Field. 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 published in the Airport/Facility Directory.

* * * * *

Paragraph 6002. Class E Airspace Designated as Surface Areas

* * * * *

AWP AZ E2 Prescott, AZ [Revised]

Prescott, Ernest A. Love Field, AZ
(Lat. 34°39′06″ N, long. 112°25′18″ W)

That airspace extending upward from the surface to and including 7,500 feet MSL within a 6-mile radius of Ernest A. Love Field. 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 published in the Airport/Facility Directory.

* * * * *

Issued in Los Angeles, California, on August 11, 2004.

John Clancy,

Area Director, Western Terminal Operations.

[FR Doc. 04–19736 Filed 8–27–04; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 100

[CGD05–04–138]

RIN 1625–AA08

Special Local Regulations for Marine Events; Southern Branch, Elizabeth River, Portsmouth, VA

AGENCY: Coast Guard, DHS.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Coast Guard proposes to establish temporary special local regulations for the "International Search and Rescue Competition", a marine event to be held on the waters of the Southern Branch of the Elizabeth River at Portsmouth, Virginia. This action is necessary to provide for the safety of life on navigable waters during the event. This action is intended to restrict vessel traffic in portions of the Southern Branch of the Elizabeth River during the event.

DATES: Comments and related material must reach the Coast Guard on or before September 29, 2004.

ADDRESSES: You may mail comments and related material to Commander (oax), Fifth Coast Guard District, 431 Crawford Street, Portsmouth, Virginia 23704–5004, hand-deliver them to Room 119 at the same address between 9 a.m. and 2 p.m., Monday through Friday, except Federal holidays, or fax them to (757) 398–6203. The Auxiliary and Recreational Boating Safety Branch, Fifth Coast Guard District, maintains the public docket for this rulemaking. Comments and material received from the public, as well as documents indicated in this preamble as being available in the docket, will become part of this docket and will be available for inspection or copying at the above address between 9 a.m. and 2 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: S. L. Phillips, Project Manager, Auxiliary and Recreational Boating Safety Branch, at (757) 398–6204.

SUPPLEMENTARY INFORMATION:

Request for Comments

We encourage you to participate in this rulemaking by submitting comments and related material. If you do so, please include your name and address, identify the docket number for this rulemaking (CGD05–04–138), indicate the specific section of this document to which each comment applies, and give the reason for each comment. Please submit all comments and related material in an unbound format, no larger than 8½ by 11 inches, suitable for copying. If you would like to know they reached us, please enclose a stamped, self-addressed postcard or envelope. We will consider all comments and material received during the comment period. We may change this proposed rule in view of them.

In order to provide notice and an opportunity to comment before issuing an effective rule, we are providing a shorter than normal comment period. A 30-day comment period is sufficient to allow those who might be affected by this rulemaking to submit their comments because the regulations have a narrow, local application, and there will be local notifications in addition to the **Federal Register** publication such as press releases, marine information broadcasts, and the Local Notice to Mariners.

Public Meeting

We do not now plan to hold a public meeting. But you may submit a request for a meeting by writing to Commander (oax), Fifth Coast Guard District at the address under **ADDRESSES** explaining why one would be beneficial. If we determine that one would aid this rulemaking, we will hold one at a time and place announced by a later notice in the **Federal Register**.

Background and Purpose

The United States and Canadian Coast Guard Auxiliaries will sponsor the "International Search and Rescue Competition", a marine event to be held on the waters of the Southern Branch of the Elizabeth River at Portsmouth, Virginia, on November 5 and 6, 2004. The event will consist of International teams competing in various events designed to demonstrate competence in maritime search and rescue techniques. To provide for the safety of participants, spectators and support vessels, the Coast Guard proposes to temporarily restrict vessel traffic in the Southern Branch of the Elizabeth River, including the North Ferry Landing, during the event.

Discussion of Proposed Rule

The Coast Guard proposes to establish temporary special local regulations on waters of the Southern Branch of the Elizabeth River at Portsmouth, Virginia. The temporary regulations would be in effect from 8 a.m. to 6 p.m. on November 5 and 6, 2004. The effect would be to restrict general navigation in the regulated area during the event. Except for persons or vessels authorized by the Coast Guard Patrol Commander, no person or vessel would be allowed to enter or remain in the regulated area. The proposed regulated area is needed to control vessel traffic during the event to enhance the safety of participants, spectators and transiting vessels.

Regulatory Evaluation

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

of Management and Budget has not reviewed it under that Order. It is not "significant" under the regulatory policies and procedures of the Department of Homeland Security (DHS).

We expect the economic impact of this proposed rule to be so minimal that a full Regulatory Evaluation under the regulatory policies and procedures of DHS is unnecessary. Although this proposed regulation would prevent traffic from transiting the Southern Branch of the Elizabeth River during the event, the effect of this proposed regulation would not be significant due to the limited duration that the regulated area will be in effect, and the extensive advance notifications that will be made to the maritime community via the Local Notice to Mariners, marine information broadcasts, and area newspapers, so mariners can adjust their plans accordingly. Additionally, the proposed regulated area has been narrowly tailored to impose the least impact on general navigation yet provide the level of safety deemed necessary. Vessel traffic would be able to transit the Southern Branch of the Elizabeth River whenever the Coast Guard Patrol Commander determines it safe to do so.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601–612), we have considered whether this proposed 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 proposed rule would not have a significant economic impact on a substantial number of small entities. This proposed rule would affect the following entities, some of which might be small entities: the owners or operators of vessels intending to transit the Southern Branch of the Elizabeth River during the event.

This proposed rule would not have a significant economic impact on a substantial number of small entities for the following reasons. This proposed rule would be in effect for only a short period. The proposed regulated area has been narrowly tailored to impose the least impact on general navigation yet provide the level of safety deemed necessary. Vessel traffic will be allowed to transit the Southern Branch of the Elizabeth River whenever the Coast Guard Patrol Commander determines it safe to do so. Before the enforcement period, we would issue maritime advisories so mariners can adjust their plans accordingly.

If you think that your business, organization, or governmental jurisdiction qualifies as a small entity and that this rule would have a significant economic impact on it, please submit a comment (see **ADDRESSES**) explaining why you think it qualifies and how and to what degree this rule would economically affect it.

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 proposed rule so that they can better evaluate its effects on them and participate in the rulemaking. If the rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please contact the address listed under **ADDRESSES.** The Coast Guard will not retaliate against small entities that question or complain about this rule or any policy or action of the Coast Guard.

Collection of Information

This proposed rule would call 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 proposed 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 proposed rule would not result in such an expenditure, we do discuss the effects of this rule elsewhere in this preamble.

Taking of Private Property

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

Technical Standards

The National Technology Transfer and Advancement Act (NTTAA) (15 U.S.C. 272 note) directs agencies to use voluntary consensus standards in their regulatory activities unless the agency provides Congress, through the Office of Management and Budget, with an explanation of why using these

standards would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (*e.g.*, specifications of materials, performance, design, or operation; test methods; sampling procedures; and related management systems practices) that are developed or adopted by voluntary consensus standards bodies.

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

Environment

We have analyzed this proposed rule under Commandant Instruction M16475.1D, which guides the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321–4370f), and have concluded that there are no factors in this case that would limit the use of a categorical exclusion under section 2.B.2 of the Instruction. Therefore, this rule is categorically excluded under figure 2–1, paragraph (34)(h), of the Instruction, from further environmental documentation. Special local regulations issued in conjunction with a regatta or marine parade permit are specifically excluded from further analysis and documentation under those sections.

Under figure 2–1, paragraph (34)(h), of the Instruction, an "Environmental Analysis Check List" and a "Categorical Exclusion Determination" are not required for this rule. Comments on this section will be considered before we make the final decision on whether to categorically exclude this rule from further environmental review.

List of Subjects in 33 CFR part 100

Marine Safety, Navigation (water), Reporting and recordkeeping requirements, Waterways.

For the reasons discussed in the preamble, the Coast Guard proposes to amend 33 CFR part 100 as follows:

PART 100—SAFETY OF LIFE ON NAVIGABLE WATERS

1. The authority citation for part 100 continues to read as follows:

Authority: 33 U.S.C. 1233, Department of Homeland Security Delegation No. 0170.1.

2. Add temporary § 100.35–T05–138 to read as follows:

§ 100.35–T05–138; Southern Branch, Elizabeth River, Portsmouth, VA

(a) *Regulated area.* The regulated area is established for the waters of the Southern Branch of the Elizabeth River including the North Ferry Landing, from shoreline to shoreline, bounded to the north by a line drawn along Latitude 36°50′23″ N and bounded to the south by a line drawn along Latitude 36°50′12″ N. All coordinates reference Datum NAD 1983.

(b) *Definitions.* As used in this section—

Coast Guard Patrol Commander means a commissioned, warrant, or petty officer of the Coast Guard who has been designated by the Commander, Coast Guard Group Hampton Roads.

Official Patrol means any vessel assigned or approved by Commander, Coast Guard Group Hampton Roads with a commissioned, warrant, or petty officer on board and displaying a Coast Guard ensign.

(c) *Special local regulations.* (1) Except for persons or vessels authorized by the Coast Guard Patrol Commander, no person or vessel may enter or remain in the regulated area.

(2) The operator of any vessel in the regulated area shall:

(i) Stop the vessel immediately when directed to do so by any Official Patrol.

(ii) Proceed as directed by any Official Patrol.

(d) *Enforcement period.* This section will be enforced from 8 a.m. to 6 p.m. on November 5 and 6, 2004.

Dated: August 16, 2004.

Ben R. Thomason, III,

Captain, U.S. Coast Guard, Acting Commander, Fifth Coast Guard District.

[FR Doc. 04–19732 Filed 8–27–04; 8:45 am]

BILLING CODE 4910–15–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 58

[Docket # ID–04–003b; FRL–7801–7]

Changing the Ozone Monitoring Season in Idaho From April Through October to May Through September

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: Currently the ozone monitoring season for Idaho is April through October. Based on the ozone monitoring season in adjacent states with similar climatology, and analysis of existing ozone monitoring data collected in Boise, EPA is proposing to change the ozone monitoring season for Idaho to the months of May through September.

DATES: Comments on this proposed rule must be received in writing by September 29, 2004.

ADDRESSES: Comments may be mailed to Keith A. Rose, Environmental Protection Agency, Office of Air, Waste and Toxics (OAQ–107), EPA Region 10, 1200 Sixth Ave., Seattle Washington 98101. Comments may also be submitted electronically or through hand delivery/courier; please follow the detailed instructions in the Addresses section of the direct final rule which is located in the rules section of this **Federal Register**. To submit comments, please follow the detailed instructions described in the Direct Final Rule, **SUPPLEMENTARY INFORMATION** section, Part I, General Information.

Copies of the documents relevant to this action are available for public inspection between 8 a.m. and 4 p.m., Monday through Friday at the following office: United States Environmental Protection Agency, Region 10, Office of Air, Waste and Toxics, 1200 Sixth Ave., Seattle WA 98101.

FOR FURTHER INFORMATION CONTACT: Keith A. Rose, Office of Air, Waste and Toxics (OAQ–107), EPA Region 10, 1200 Sixth Ave., Seattle, WA 98101, (206) 553–1949, or *rose.keith@epa.gov.*

SUPPLEMENTARY INFORMATION: In the Final Rules Section of this **Federal Register**, EPA is changing the ozone monitoring season in Idaho to May through September as a direct final rule without prior proposal because the Agency views the change in ozone monitoring season in Idaho as noncontroversial and anticipates no adverse comments. A detailed rationale for the approval is set forth in the direct final rule. If no adverse comments are received in response to this proposed rule, no further activity is contemplated in relation to this rule. If EPA receives adverse comments, the direct final rule will be withdrawn and all public comments received will be addressed in a subsequent final rule based on this proposed rule. EPA will not institute a second comment period on this action. Any parties interested in commenting on this action should do so at this time.

For additional information see the direct final rule, of the same title, published in the rules section of this **Federal Register**.

Dated: July 15, 2004.

Ron Kreizenbeck,

Acting Regional Administrator, Region 10.

[FR Doc. 04–19729 Filed 8–27–04; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 11

[EB Docket No. 04–296; FCC 04–189]

Review of the Emergency Alert System

AGENCY: Federal Communications Commission.

ACTION: Notice of proposed rulemaking.

SUMMARY: This document examines the Emergency Alert System (EAS), and seeks comment on whether EAS in its present form is the most effective mechanism for warning the American public of an emergency and, if not, on how EAS can be improved. *The Notice of Proposed Rule Making (NPRM)* is the most recent in a series of proceedings in which the Federal Communications Commission has sought to contribute to an efficient and technologically current public alert and warning system.

DATES: Comments are due on or before October 29, 2004 and reply comments are due on or before November 29, 2004.

Written comments on the Paperwork Reduction Act proposed information collection requirements must be submitted to the public, Office of Management and Budget (OMB), and other interested parties on or before October 29, 2004.

ADDRESSES: Send comments and reply comments to the Office of the Secretary, Federal Communications Commission, 445 12th Street, SW., Room TW–A325, Washington, DC 20554. See **SUPPLEMENTARY INFORMATION** for further filing instructions.

In addition to filing comments with the Secretary, a copy of any comments on the Paperwork Reduction Act information collection requirements contained herein should be submitted to Judith B. Herman, Federal Communications Commission, Room 1–C804, 445 12th Street, SW., Washington, DC 20554, or via the Internet to *Judith-B.Herman@fcc.gov*, and to Kristy L. LaLonde, OMB Desk Officer, Room 10234 NEOB, 725 17th Street, NW., Washington, DC 20503, via the Internet to *Kristy_L.LaLonde@omb.eop.gov*, or via fax at 202–395–5167.

FOR FURTHER INFORMATION CONTACT: Jean Ann Collins, Enforcement Bureau, Office of Homeland Security, at (202) 418–1199, or via the Internet at *jeanann.collins@fcc.gov*. For additional information concerning the Paperwork Reduction Act information collection requirements contained in this document, contact Judith B. Herman at 202–418–0214, or via the Internet at *Judith-B.Herman@fcc.gov*.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's *Notice of Proposed Rule Making*, EB Docket No. 04–296, FCC 04–189, adopted August 4, 2004, and released August 12, 2004. The complete text of this *NPRM* is available for inspection and copying during normal business hours in the FCC Reference Information Center, 445 12th Street, SW., Room CY–A257, Washington, DC 20554. This document may also be purchased from the Commission's duplicating contractor, Qualex International, 445 12th Street, SW., Room CY–B402, Washington, DC 20554, telephone 202–863–2893, facsimile 202–863–2898, or via e-mail *qualexint@aol.com*. It is also available on the Commission's Web site at *http://www.fcc.gov*. Initial Paperwork Reduction Act of 1995 Analysis. This document contains proposed or modified information collection requirements. The Commission, as part of its continuing effort to reduce paperwork burdens, invites the general public and the Office of Management and Budget (OMB) to comment on the information collection requirements contained in this document, as required by the Paperwork Reduction Act of 1995, Pub. L. 104–13. Public and agency comments are due October 29, 2004. Comments should address: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; (b) the accuracy of the Commission's burden estimates; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology. In addition, pursuant to the Small Business Paperwork Relief Act of 2002, Pub. L. 107–198, *see* 44 U.S.C. 3506(c)(4), the Commission seeks specific comment on how the Commission might "further reduce the information collection burden for small business concerns with fewer than 25 employees."

OMB Control Number: 3060–0207.

Title: Part 11—Emergency Alert System (EAS).

Form No.: Not applicable.

Type of Review: Revision of currently approved collection.

Respondents: Business or other for-profit; not-for-profit institutions; State, local or tribal governments.

Estimated Number of Respondents: 22,000.

Estimated Time Per Response: Range from 0.017–40 hours.

Frequency of Response: On occasion reporting requirement and recordkeeping requirement.

Estimated Total Annual Burden: 38,585 hours.

Estimated Total Annual Costs: $8,250,000.

Privacy Act Impact Assessment: Not applicable.

Needs and Uses: As currently approved by OMB and reflected in the information above, Part 11 contains rules and regulations providing for an emergency alert system. The EAS provides the President with the capability to provide immediate communications and information to the general public during periods of national emergency. The EAS also provides state and local governments including the National Weather Service with the capability to provide immediate communications and information to the general public concerning emergency situations posing a threat to life and property. With the adoption of the *NPRM*, the Commission seeks comment on whether the EAS in its present form is the most efficient mechanism for warning the American public of an emergency and, if not, on how the EAS can be improved. Upon adoption of a final order, the Commission will submit to OMB for approval any revisions to the existing collection. The main objective of the *NPRM* is to seek comment on whether EAS as currently constituted is the most effective and efficient public warning system that best takes advantage of appropriate technological advances and best responds to the public's need to obtain timely emergency information. One of the main central issues on which the *NPRM* seeks comment is the current efficacy of EAS in an age when the communications landscape has evolved from what it was when EAS predecessors, and EAS itself, were originally conceived.

Comments may be filed using the Commission's Electronic Comment Filing System (ECFS) or by filing paper copies. All filings should refer to EB Docket No. 04–296. Comments filed through the ECFS can be sent as an electronic file via the Internet to *http://www.fcc.gov/e-file/ecfs.html*. Only one copy of an electronic submission must be filed. In completing the transmittal screen, commenters should include their full name, postal service mailing address, and the applicable docket number, which in this instance is EB Docket No. 04–296. Parties may also submit an electronic comment by Internet e-mail. To get filing instruction for e-mail comments, commenters should send an e-mail to

ecfshelp@fcc.gov, and should include the following words in the regarding line of the message: "get form<your e-mail address>." A sample form and directions will be sent in reply. A copy of the ASCII Electronic Transmittal Form (FORM–ET) at *http://www.fcc.gov/e-file/email.html*.

Parties who choose to file by paper must file an original and four copies of each filing. Filings can be sent by hand or messenger delivery, by commercial overnight courier, or by first-class or overnight U.S. Postal Service mail (although the Commission continues to experience delays in receiving U.S. Postal Service mail).

For hand deliveries, the Commission contractor, Natek, Inc., will receive hand-delivered or messenger-delivered paper filings for the Commission Secretary at 236 Massachusetts Avenue, NE., Suite 110, Washington DC 20002. The filing hours at this location are 8 a.m. to 7 p.m. All hand deliveries must be held together with rubber bands or fasteners. Any envelopes must be disposed of before entering the building.

Commercial overnight mail (other than U.S. Postal Service Express Mail and Priority Mail) must be sent to 9300 East Hampton Drive, Capitol Heights, MD 20743. U.S. Postal Service first-class mail, Express Mail, and Priority Mail should be addressed to 445 12th Street, SW., Washington, DC 20554. All filings must be addressed to the Commission Secretary, Office of the Secretary, Federal Communications Commission.

Comments and reply comments must include a short and concise summary of the substantive arguments raised in the pleading. Comments and reply comments must also comply with 47 CFR 1.48 and all other applicable sections of the Commission's rules. The Commission directs all interested parties to include the name of the filing party and the date of the filing on each page of their comments and reply comments. All parties are encouraged to utilize a table of contents, regardless of the length of their submission. The Commission also strongly encourages that parties track the organization set forth in this *NPRM* in order to facilitate the Commission's internal review process.

To request materials in accessible formats (such as Braille, large print, electronic files, or audio format), send an e-mail to *fcc504@fcc.gov* or call the Consumer & Governmental Affairs Bureau at (202) 418–0531 (voice) or (202) 418–7365 (TTY). This Public Notice can also be downloaded in Word and Portable Document Format at *http://www.fcc.gov/cgb.dro*.

Synopsis of the Notice of Proposed Rulemaking

1. Since the tragic events of September 11, 2001, an expanding circle of interested parties, including individual citizens, public/private groups, and our federal, state, and local partners, have raised issues about the efficacy of EAS as a public warning mechanism. Some of these issues are rooted in the fact that EAS mandates only delivery of a "Presidential message." The Commission's EAS rules primarily are concerned with the implementation of EAS in this national role. The Commission seeks comment on the threshold question of whether the current EAS infrastructure is the best mechanism for delivering a national level message.

2. Along with its primary role as a national public warning system, EAS and other emergency notification mechanisms are part of an overall public alert and warning system, over which the Federal Emergency Management Agency (FEMA) exercises jurisdiction. EAS use as part of such a public warning system at the state and local levels, while encouraged, is merely voluntary. Thus, although Federal, state, and local governments, and the consumer electronics industry have taken steps to ensure that alert and warning messages are delivered by a responsive, robust and redundant system, the permissive nature of EAS at the state and local level has resulted in an inconsistent application of EAS as an effective component of overall public alert and warning system. Accordingly, the Commission believes that it should now consider whether permissive state and local EAS participation is appropriate in today's world.

3. There are similar questions about the technical capabilities of EAS. For example, should the Commission extend its EAS requirement to include other digital broadcast media, such as IBOC DAB, DBS, DTV, and satellite DARS. Also, the Commission seeks comment on the extent to which EAS can be coordinated with other public alert and warning systems, such as those based on wireless technologies.

4. It is the Commission's intention in this proceeding to seek comment on these and an array of other questions and potential rule changes. The Commission has already begun—and will continue throughout this proceeding—to coordinate carefully with the Department of Homeland Security (DHS), its component, FEMA, and the Department of Commerce and its component, the National Oceanic and Atmospheric Administration's (NOAA's) National Weather Service (NWS). The Commission anticipates these federal partners will be active participants in the proceeding. In addition to seeking comments from all interested individuals and federal entities on the issues raised in this NPRM, we also specifically seek the participation of state and local emergency planning organizations and solicit their views. Finally, the Commission seeks input from all telecommunications industries concerned about developing a more effective EAS.

Initial Regulatory Flexibility Analysis

5. With respect to this *NPRM*, an Initial Regulatory Flexibility Analysis (IRFA) is contained in Appendix A. As required by the Regulatory Flexibility Act of 1980, as amended (RFA), the Commission has prepared an IRFA of the possible significant economic impact on a substantial number of small entities by the policies and rules proposed in this *NPRM*. Written public comments are requested on this IRFA. Comments must be identified as responses to the IRFA and must be filed by the deadlines for comments as described above. The Commission will send a copy of the *NPRM*, including this IRFA, to the Chief Counsel for Advocacy of the Small Business Administration (SBA).

Need for, and Objectives of, the Proposed Rules

6. In this *NPRM*, the Commission solicits comment on whether EAS in its present form is the most effective mechanism for warning the American public of an emergency and, if not, on how EAS can be improved.

Legal Basis

7. Authority for the actions proposed in this *NPRM* may be found in sections 1, 4(i) and (o), 303(r), 403, 624(g) and 706 of the Communications Act of 1934, as amended, 47 U.S.C. 151, 154(i), and (o), 303(r), 403, 554(g) and 606.

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

8. The RFA directs agencies to provide a description of and, where feasible, an estimate of the number of small entities that will be affected by the proposed rules. The RFA generally defines the term "small entity" as having the same meaning as the terms "small business," "small organization," and "small governmental jurisdiction." In addition, the term "small business" has the same meaning as the term "small business concern" under the

Small Business Act. A small business concern is one which: (1) Is independently owned and operated; (2) is not dominant in its field of operation; and (3) satisfies any additional criteria established by the Small Business Administration (SBA). A small organization is generally "any not-for-profit enterprise which is independently owned and operated and is not dominant in its field." The arts, entertainment, and recreations sector had 96,497 small firms.

9. *Television Broadcasting.* The SBA has developed a small business sized standard for television broadcasting, which consists of all such firms having $12 million or less in annual receipts. Business concerns included in this industry are those "primarily engaged in broadcasting images together with sound." According to Commission staff review of BIA Publications, Inc. Master Access Television Analyzer Database as of May 16, 2003, about 814 of the 1,220 commercial television stations in the United States had revenues of $12 million or less. We note, however, that, in assessing whether a business concern qualifies as small under the above definition, business (control) affiliations must be included. Our estimate, therefore, likely overstates the number of small entities that might be affected by our action, because the revenue figure on which it is based does not include or aggregate revenues from affiliated companies. There are also 2,127 low power television stations (LPTV). Given the nature of this service, we will presume that all LPTV licensees qualify as small entities under the SBA size standard.

10. *Radio Stations.* The SBA has developed a small business size standard for Radio Stations, which consists of all such firms having $6 million or less in annual receipts. Business concerns included in this industry are those "primarily engaged in broadcasting aural programs by radio to the public." According to Commission staff review of BIA Publications, Inc., Master Access Radio Analyzer Database, as of May 16, 2003, about 10,427 of the 10,945 commercial radio stations in the United States had revenue of $6 million or less. We note, however, that many radio stations are affiliated with much larger corporations with much higher revenue, and, that in assessing whether a business concern qualifies as small under the above definition, such business (control) affiliations are included. Our estimate, therefore, likely overstates the number of small businesses that might be affected by our action.

11. *Cable and Other Program Distribution.* The SBA has developed a small business size standard for Cable and Other Program Distribution, which consists of all such firms having $12.5 million or less in annual receipts. According to Census Bureau data for 1997, in this category there was a total of 1,311 firms that operated for the entire year. Of this total, 1,180 firms had annual receipts of under $10 million, and an additional 52 firms had receipts of $10 million to $24,999,999. Thus, under this size standard, the majority of firms can be considered small.

12. *Multipoint Distribution Systems.* The proposed rules would apply to Multipoint Distribution Systems (MDS) operated as part of a wireless cable system. The Commission has defined "small entity" for purposes of the auction of MDS frequencies as an entity that, together with its affiliates, has average gross annual revenues that are not more than $40 million for the preceding three calendar years. This definition of small entity in the context of MDS auctions has been approved by the SBA. The Commission completed its MDS auction in March 1996 for authorizations in 493 basic trading areas. Of 67 winning bidders, 61 qualified as small entities. At this time, we estimate that of the 61 small business MDS auction winners, 48 remain small business licensees.

13. MDS also includes licensees of stations authorized prior to the auction. As noted, the SBA has developed a definition of small entities for pay television services, Cable and Other Subscription Programming, which includes all such companies generating $12.5 million or less in annual receipts. This definition includes MDS and thus applies to MDS licensees that did not participate in the MDS auction. Information available to us indicates that there are approximately 392 incumbent MDS licensees that do not generate revenue in excess of $11 million annually. Therefore, the Commission finds that there are approximately 440 (392 pre-auction plus 48 auction licensees) small MDS providers as defined by the SBA and the Commission's auction rules which may be affected by the rules proposed herein.

14. *Instructional Television Fixed Service.* The proposed rules would also apply to Instructional Television Fixed Service facilities operated as part of a wireless cable system. The SBA definition of small entities for pay television services also appears to apply to ITFS. There are presently 2,032 ITFS licensees. All but 100 of these licenses are held by educational institutions. Educational institutions are included in the definition of a small business. However, we do not collect annual revenue data for ITFS licensees, and are not able to ascertain how many of the 100 non-educational licensees would be categorized as small under the SBA definition. Thus, we tentatively conclude that at least 1,932 ITFS are small businesses and may be affected by the proposed rules.

15. *Wireless Service Providers.* The SBA has developed a small business size standard for wireless small businesses within the two separate categories of Paging and Cellular and Other Wireless Telecommunications. Under both SBA categories, a wireless business is small if it has 1,500 or fewer employees. According to the Commission's most recent data, 1,761 companies reported that they were engaged in the provision of wireless service. Of these 1,761 companies, an estimated 1,175 have 1,500 or fewer employees and 586 have more than 1,500 employees. This SBA size standard also applies to wireless telephony. Wireless telephony includes cellular, personal communications services, and specialized mobile radio telephony carriers. According to the most recent Trends in Telephone Service data, 719 carriers reported that they were engaged in the provision of wireless telephony. The Commission has estimated that 294 of these are small under the SBA small business size standard.

16. *Broadband Personal Communications Service.* The broadband personal communications services (PCS) spectrum is divided into six frequency blocks designated A through F, and the Commission has held auctions for each block. The Commission has created a small business size standard for Blocks C and F as an entity that has average gross revenues of less than $40 million in the three previous calendar years. For Block F, an additional small business size standard for "very small business" was added and is defined as an entity that, together with its affiliates, has average gross revenues of not more than $15 million for the preceding three calendar years. These small business size standards, in the context of broadband PCS auctions, have been approved by the SBA. No small businesses within the SBA-approved small business size standards bid successfully for licenses in Blocks A and B. There were 90 winning bidders that qualified as small entities in the Block C auctions. A total of 93 "small" and "very small" business bidders won approximately 40 percent of the 1,479 licenses for Blocks D, E, and F. On March 23, 1999, the Commission

re-auctioned 155 C, D, E, and F Block licenses; there were 113 small business winning bidders. On January 26, 2001, the Commission completed the auction of 422 C and F Broadband PCS licenses in Auction No. 35. Of the 35 winning bidders in this auction, 29 qualified as "small" or "very small" businesses. Subsequent events, concerning Auction 35, including judicial and agency determinations, resulted in a total of 163 C and F Block licenses being available for grant.

17. *Incumbent Local Exchange Carriers (Incumbent LECs).* The Commission has included small incumbent local exchange carriers in this present IRFA analysis. As noted above, a "small business" under the RFA is one that, inter alia, meets the pertinent small business size standard (*e.g.*, a telephone communications business having 1,500 or fewer employees), and "is not dominant in its field of operation." The SBA's Office of Advocacy contends that, for RFA purposes, small incumbent LECs are not dominant in their field of operation because any such dominance is not "national" in scope. The Commission has therefore included small incumbent local exchange carriers in this RFA analysis, although we emphasize that this RFA action has no effect on Commission analyses and determinations in other, non-RFA contexts. Neither the Commission nor the SBA has developed a small business size standard specifically for incumbent local exchange services. The appropriate size standard under SBA rules is for the category Wired Telecommunications Carriers. Under that size standard, such a business is small if it has 1,500 or fewer employees. According to Commission data, 1,337 carriers have reported that they are engaged in the provision of incumbent local exchange services. Of these 1,337 carriers, an estimated 1,032 have 1,500 or fewer employees and 305 have more than 1,500 employees. Consequently, the Commission estimates that most providers of incumbent local exchange service are small businesses that may be affected by our proposed rules.

18. *Competitive Local Exchange Carriers (Competitive LECs), Competitive Access Providers (CAPs), "Shared-Tenant Service Providers," and "Other Local Service Providers."* Neither the Commission nor the SBA has developed a small business size standard specifically for these service providers. The appropriate size standard under SBA rules is for the category Wired Telecommunications Carriers. Under that size standard, such a business is small if it has 1,500 or fewer employees. According to Commission data, 609 carriers have reported that they are engaged in the provision of either competitive access provider services or competitive local exchange carrier services. Of these 609 carriers, an estimated 458 have 1,500 or fewer employees and 151 have more than 1,500 employees. In addition, 16 carriers have reported that they are "Shared-Tenant Service Providers," and all 16 are estimated to have 1.500 or fewer employees. In addition, 35 carriers have reported that they are "Other Local Service Providers." Of the 35, an estimated 34 have 1,500 or fewer employees and one has more than 1,500 employees. Consequently, the Commission estimates that most providers of competitive local exchange service, competitive access providers, "Shared-Tenant Service Providers," and "Other Local Service Providers" are small entities that may be affected by our proposed rules.

19. *Satellite Telecommunications and Other Telecommunications.* The Commission has not developed a small business size standard specifically for providers of international service. The appropriate size standards under SBA rules are for the two broad categories of Satellite Telecommunications and Other Telecommunications. Under both categories, such a business is small if it has $12.5 or less in average annual receipts. For the first category of Satellite Telecommunications, Census Bureau data for 1997 show that there were a total of 324 firms that operated for the entire year. Of this total, 273 firms had annual receipts of under $10 million, and an additional twenty-four firms had receipts of $10 million to $24,999,999. Thus, the majority of Satellite Telecommunications firms can be considered small.

20. The second category—Other Telecommunications—includes "establishments primarily engaged in * * * providing satellite terminal stations and associated facilities operationally connected with one or more terrestrial communications systems and capable of transmitting telecommunications to or receiving telecommunications from satellite systems." According to Census Bureau data for 1997, there were 439 firms in this category that operated for the entire year. Of this total, 424 firms had annual receipts of $5 million to $9,999,999 and an additional 6 firms had annual receipts of $10 million to $24,999,990. Thus, under this second size standard, the majority of firms can be considered small.

Description of Projected Reporting, Recordkeeping, and Other Compliance Requirements

21. There are potential reporting or recordkeeping requirements proposed in this *NPRM*, particularly with regard to state and local EAS participation and participation by digital broadcasters. The proposals set forth in the *NPRM* are intended to enhance the performance of the EAS while reducing regulatory burdens wherever possible.

Steps Taken To Minimize Significant Economic Impact on Small Entities, and Significant Alternatives Considered

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

23. In setting forth the proposals contained in the *NPRM*, the Commission has attempted to minimize the burdens on all entities. The Commission seeks comment on the impact of our proposals on small entities and on any possible alternatives that would minimize the impact on small entities.

Federal Rules That Duplicate, Overlap, or Conflict With the Proposed Rules

24. None.

Ex Parte Rules

25. These matters shall be treated as a "permit-but-disclose" proceeding in accordance with the Commission's ex parte rules. Persons making oral ex parte presentations are reminded that memoranda summarizing the presentations must contain summaries of the substance of the presentations and not merely a listing of the subjects discussed. More than a one or two sentence description of the views and arguments presented is generally required. Other requirements pertaining to oral and written presentations are set forth in section 1.1206(b) of the Commission's rules.

Ordering Clauses

26. Accordingly, pursuant to the authority contained in sections 1, 4(i) and (o), 303®, 403, 624(g) and 706 of the

Communications Act of 1934, as amended, 47 U.S.C. 151, 154(i) and (o), 303(r), 403, 554(g), and 606, *Notice is Hereby Given* of the proposals described in the *Notice of Proposed Rulemaking*.

27. The Commission's Consumer and Governmental Affairs Bureau, Reference Information Center, SHALL SEND a copy of the *Notice of Proposed Rulemaking*, including the Initial Regulatory Analysis, to the Chief Counsel for Advocacy of the Small Business Administration in accordance with the Regulatory Flexibility Act.

Federal Communications Commission.

Marlene H. Dortch,

Secretary.

[FR Doc. 04–19743 Filed 8–27–04; 8:45 am]

BILLING CODE 6712–01–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 648

[Docket No. 040804226–4226–01; I.D. 071904C]

RIN 0648–AR50

Fisheries of the Northeastern United States; Summer Flounder, Scup, and Black Sea Bass Fisheries; Framework Adjustment 5

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

ACTION: Proposed rule; request for comments.

SUMMARY: NMFS proposes measures contained in Framework Adjustment 5 (Framework 5) to the Summer Flounder, Scup, and Black Sea Bass Fishery Management Plan (FMP) that would allow for specification of the annual Total Allowable Landings (TAL) for multiple years. The intent is to provide flexibility and efficiency to the management of the species.

DATES: Comments must be received on or before September 14, 2004.

ADDRESSES: Copies of Framework 5, the Regulatory Impact Review (RIR), Initial Regulatory Flexibility Analysis (IRFA), and other supporting documents are available from Daniel Furlong, Executive Director, Mid-Atlantic Fishery Management Council, Room 2115, Federal Building, 300 South Street, Dover, DE 19901–6790. The RIR/IRFA is also accessible via the Internet at *http://www.nero.nmfs.gov*. Written comments on the proposed rule should be sent to Patricia A. Kurkul, Regional Administrator, NMFS, Northeast Regional Office, One Blackburn Drive, Gloucester, MA 01930. Mark the outside of the envelope "Comments on Framework 5." Comments may also be submitted via facsimile (fax) to 978–281–9135, or via e-mail to the following address: *FSBFW5@noaa.gov*. Include in the subject line of the e-mail comment the following document identifier: "Comments on Framework 5." Comments may also be submitted electronically through the Federal e-Rulemaking portal: *http//www.regulations.gov*.

FOR FURTHER INFORMATION CONTACT: Sarah McLaughlin, Fishery Policy Analyst, (978) 281–9279, fax (978) 281–9135.

SUPPLEMENTARY INFORMATION:

Background

The summer flounder, scup, and black sea bass fisheries are managed cooperatively by the Atlantic States Marine Fisheries Commission (Commission) and the Mid-Atlantic Fishery Management Council (Council), in consultation with the New England and South Atlantic Fishery Management Councils. The management units specified in the FMP include summer flounder (*Paralichthys dentatus*) in U.S. waters of the Atlantic Ocean from the southern border of North Carolina (NC) northward to the U.S./Canada border, and scup (*Stenotomus chrysops*) and black sea bass (*Centropristis striata*) in U.S. waters of the Atlantic Ocean from 35°13.3′ N. lat. (the latitude of Cape Hatteras Lighthouse, Buxton, NC) northward to the U.S./Canada border. Implementing regulations for these fisheries are found at 50 CFR part 648, subparts A, G (summer flounder), H (scup), and I (black sea bass).

The current regulations outline an annual process for specifying the catch limits for the summer flounder, scup, and black sea bass commercial and recreational fisheries, as well as other management measures (e.g., mesh requirements, minimum fish sizes, gear restrictions, possession restrictions, and area restrictions) for these fisheries. The measures are intended to achieve the annual targets set forth for each species in the FMP, specified either as a fishing mortality (F) rate or an exploitation rate (the proportion of fish available at the beginning of the year that are removed by fishing during the year). Once the catch limits are established, they are divided into quotas based on formulas contained in the FMP.

The Council developed Framework 5, pursuant to §§ 648.108, 648.127, and 648.147, in order to streamline the administrative and regulatory processes involved in specifying the TALs for the summer flounder, scup, and black sea bass fisheries, while, at the same time, maintaining consistency with the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act). In particular, Framework 5 would allow for specification of TALs for the summer flounder, scup, and/or black sea bass fisheries in any given year for the following 1 to 3 years. Under the current management system, specification of commercial quotas and recreational harvest limits for these fisheries is done on an annual basis. Under the proposed process, all of the environmental and regulatory review procedures currently required under the Magnuson-Stevens Act, National Environmental Policy Act, and other applicable law would be conducted and documented during the year in which the multi-year specifications are set. The analyses would consider impacts throughout the time span for which specifications are set (i.e., 1 to 3 years). TALs would not have to be constant from year to year within the multi-year specifications, but would instead be based upon expectations of future stock conditions as indicated by the best scientific information available at the time the multi-year specifications are set.

Annual review of updated information on the fisheries by the Council's Summer Flounder, Scup, and Black Sea Bass Monitoring Committees and Council would not be required during the period of multi-year specifications. As such, adjustments to the TALs for years 2 and/or 3 would not occur once the multi-year specifications are set. Given the absence of an annual review TAL adjustment process, environmental impact evaluation in the specification setting year would have to consider thoroughly the uncertainty associated with projected estimates of stock size in the 2- to 3–year time horizon. Accordingly, Council recommendations for multi-year TALs would be expected to be appropriately conservative in order to reflect this uncertainty. Under Framework 5, the Council would not be obligated to specify multi-year TALs, but would be able, depending on the information available and the status of the fisheries, to specify TALs for the following 1, 2, or 3 years, as appropriate.

Although the Council's process for setting multi-year TALs would occur prior to the first year that the specifications would be in place, with no requirement to review the specifications prior to the second and/

or third years, NMFS would continue to publish a proposed and final rule each year, notifying the public of the commercial quotas and recreational harvest limits. While the Council would set the TALs for multiple years; the actual quotas available to the fisheries in any one year would be a function of the specified TALs, as reduced to account for any quota overages in previous years and to account for research set-aside (RSA) allocations set by the Council for the upcoming fishing year. Quota overages cannot be determined beforehand, and RSA allocations are set based on research proposals submitted, reviewed, and selected on an annual basis. NMFS would also continue to issue inseason actions, as necessary, to adjust commercial quotas based on updated landings information, to close a fishery or season when a quota is projected to be reached, and/or to roll over available scup quota from the Winter I period to the Winter II period, as already established in the FMP.

During the development of Framework 5, the Council considered and analyzed three alternatives for a multi-year specifications process: A no-action alternative, which would continue the requirement to establish summer flounder, scup, and black sea bass specifications on an annual basis; the proposed alternative; and an alternative that would require the Council to conduct an annual review of the previously established multi-year specifications. The Council selected the proposed action because it provided the most straightforward and efficient administrative process for establishing multi-year specifications, and is expected to provide greater regulatory consistency and predictability to the commercial and recreational fishing sectors.

In addition to the changes proposed in Framework 5, this proposed rule also would make several administrative changes to other aspects of the regulations governing the summer flounder, scup, and black sea bass fisheries to: (1) Reduce the application burden and specify the minimum enrollment period for the summer flounder small mesh exemption area to make the Letter of Authorization (LOA) consistent with all other Northeast Region LOAs, clarify the requirements of the LOA, clarify that the small-mesh possession restrictions do not apply to vessels fishing under the LOA in the exemption area, and correct the reference to net stowage requirements; (2) include the summer flounder fishery in the list of fisheries for which an operator permit is required; and (3) include in the list of potential recommendations by the Scup and Black Sea Bass Monitoring Committees a scup and black sea bass research quota set from a range of 0 to 3 percent of the maximum allowed to achieve the specified exploitation rate. A further explanation of these proposed regulatory changes appears in the Classification section of this preamble.

Classification

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

An IRFA was prepared that describes the economic impact this proposed rule, if adopted, would have on small entities. A description of the reasons why this action is being considered, and the objectives of and legal basis for this action are contained elsewhere in this preamble. This preamble also includes complete descriptions of the proposed, no action, and other alternatives discussed here. Under the current management system, the Council annually submits a specifications document to NMFS for review. Under the other two alternatives, the Council would submit a specifications document only in the first year of the multi-year specifications period, if applicable. This would reduce substantially the administrative burden on both the Council and NMFS and would allow for more efficient use of NMFS resources in preparing the annual of multi-year specifications for other fisheries, and may species. Additionally, longer term specifications should provide greater regulatory consistency and predictability to the commercial and recreational fishing sectors. Under the proposed alternative, annual review of updated information on the fisheries by the Council's Summer Flounder, Scup, and Black Sea Bass Monitoring Committees and Council would not be required during the period of multi-year specifications. The Council and NMFS have considered the risk that harvest at specified TALs in a given year could exceed appropriate fishing mortality rates for the management units as a result of multi-year specifications. The risks associated with these potential outcomes would be carefully considered by the Council when determining the appropriate TALs for years two and three in the specification setting year as part of the specifications process. Although the provision for an annual review reduces the risk of negative impacts to the fishery resources, it would also reduce administrative efficiency by increasing the chance that a previous specified TAL would be modified even for de minimus changes in TAL.

The reporting and record keeping requirements associated with the issuance of the operator permits has been previously approved by the Office of Management and Budget under OMB approval number 0648–0202. There are no relevant Federal rules that duplicate, overlap, or conflict with this rule. Framework 5 deals only with the administrative periodicity of annual TAL setting, and therefore would have minimal direct effect on entities participating in these fisheries. The other actions in this proposed rule are also solely administrative in nature and are intended to clarify existing regulations. The proposed action regarding the summer flounder small mesh exemption LOA would clarify the application process and reduce the burden on applicants. The requirement for an operator permit in the summer flounder fishery corrects an inadvertent omission and would affect only one summer flounder moratorium permit holder, who would be required to complete and submit a one-page form; the public reporting burden for the collection of information is estimated to be one hour per response. All of the other summer flounder moratorium permit holders are in compliance as a result of holding other Federal permits. The action regarding setting the research quota for the scup and black sea bass fisheries within a range of 0 to 3 percent of TALs specified for these species was the maximum allowed to achieve the specified exploitation rate was discussed in the preamble to a final rule regarding these fisheries in 2001 (66 FR 42156, August 10, 2001), but the associated change to the regulatory text was not made at that time.

List of Subjects in 50 CFR Part 648

Fishing, Fisheries, Reporting and recordkeeping requirements.

Dated: August 23, 2004.

Rebecca Lent,

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

For the reasons stated in the preamble, 50 CFR part 648 is proposed to be 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 § 648.4, paragraph (a)(3)(iii) is revised to read as follows:

§ 648.4 Vessel permits.

(a) * * *

(3) * * *

(iii) *Exemption permits.* Owners of summer flounder vessels seeking an exemption from the minimum mesh requirement under the provisions of § 648.104(b)(1) must request a letter of authorization (LOA) from the Regional Administrator. Vessels must be enrolled in the exemption program for a minimum of 7 days. The Regional Administrator may impose temporary additional procedural requirements by publishing a notification in the **Federal Register**. If a summer flounder charter or party requirement of this part differs from a summer flounder charter or party management measure required by a state, any vessel owners or operators fishing under the terms of a summer flounder charter/party vessel permit in the EEZ for summer flounder must comply with the more restrictive requirement while fishing in state waters, unless otherwise authorized under § 648.107.

* * * * *

3. In § 648.5, paragraph (a) is revised to read as follows:

§ 648.5 Operator permits.

(a) *General.* Any operator of a vessel fishing for or possessing Atlantic sea scallops in excess of 40 lb (18.1 kg), NE multispecies, spiny dogfish, monkfish, Atlantic herring, Atlantic surf clam, ocean quahog, Atlantic mackerel, squid, butterfish, summer flounder, scup, black sea bass, or bluefish, harvested in or from the EEZ; tilefish harvested in or from the EEZ portion of the Tilefish Management Unit; skates harvested in or from the EEZ portion of the Skate Management Unit; or Atlantic deep-sea red crab harvested in or from the EEZ portion of the Red Crab Management Unit, issued a permit, including carrier and processing permits, for these species under this part, must have been issued under this section, and carry on board, a valid operator permit. An operator's permit issued pursuant to part 697 of this chapter satisfies the permitting requirement of this section. This requirement does not apply to operators of recreational vessels.

* * * * *

4. In § 648.14, paragraph (a)(89) is revised to read as follows:

§ 648.14 . Prohibitions.

(a) * * *

(89) Fish for, catch, and retain, or land scup in or from the EEZ north of 35° 15.3′ N. lat. in excess of the landing limit established pursuant to § 648.120(b)(3) and (b)(4).

* * * * *

5. In § 648.100, paragraph (a) and the headings of paragraphs (b) and (c) are revised, and a new paragraph (b)(11) is added to read as follows:

§ 648.100 Catch quotas and other restrictions.

(a) *Review.* The Summer Flounder Monitoring Committee shall review the following data on or before August 15 of each year, unless a TAL has already been established for the upcoming calendar year as part of a multiple-year specification process, provided that new information does not require a modification to the multiple-year quotas, to determine the annual allowable levels of fishing and other restrictions necessary to achieve, with at least a 50–percent probability of success, a fishing mortality rate (F) that produces the maximum yield per recruit (Fmax): Commercial, recreational, and research catch data; current estimates of fishing mortality; stock status; recent estimates of recruitment; virtual population analysis results; levels of noncompliance by fishermen or individual states; impact of size/mesh regulations; sea sampling and winter trawl survey data or, if sea sampling data are unavailable, length frequency information from the winter trawl survey and mesh selectivity analyses; impact of gear other than otter trawls on the mortality of summer flounder; and any other relevant information.

(b) *Recommend measures on an annual basis.* * * *

* * * * *

(11) Total allowable landings on an annual basis for a period not to exceed three years

(c) *Fishing measures.* * * *

* * * * *

6. In § 648.104, paragraph (b)(1) is revised to read as follows:

§ 648.104 Gear restrictions.

* * * * *

(b) * * *

(1) Vessels issued a summer flounder moratorium permit, a summer flounder small-mesh exemption area letter of authorization (LOA), required under paragraph (b)(1)(i) of this section, and fishing from November 1 through April 30 in the exemption area, which is east of the line that follows 72°30.0′ W. long. until it intersects the outer boundary of the EEZ (copies of a map depicting the area are available upon request from the Regional Administrator). Vessels fishing under the LOA shall not fish west of the line. Vessels issued a permit under § 648.4(a)(3)(iii) may transit the area west or south of the line, if the vessel's fishing gear is stowed in a manner prescribed under § 648.100(e), so that it is not "available for immediate use" outside the exempted area. The Regional Administrator may terminate this exemption if he/she determines, after a review of sea sampling data, that vessels fishing under the exemption are discarding more than 10 percent, by weight, of their entire catch of summer flounder per trip. If the Regional Administrator makes such a determination, he/she shall publish notification in the **Federal Register** terminating the exemption for the remainder of the exemption season.

(i) *Requirements.* (A) A vessel fishing in the Summer Flounder Small-Mesh Exemption Area under this exemption must have on board a valid LOA issued by the Regional Administrator.

(B) The vessel must be in enrolled in the exemption program for a minimum of 7 days.

(ii) [Reserved]

* * * * *

7. In § 648.105, the first sentence of paragraph (d) is revised to read as follows:

§ 648.105 Possession restrictions.

* * * * *

(d) Owners and operators of otter trawl vessels issued a permit under § 648.4(a)(3) that fish with or possess nets or pieces of net on board that do not meet the minimum mesh requirements and that are not stowed in accordance with § 648.104(e), may not retain 100 lb (45.3 kg) or more of summer flounder from May 1 through October 31, or 200 lb (90.6 kg) or more of summer flounder from November 1 through April 30, unless the vessel possess a valid summer flounder small-mesh exemption LOA and is fishing in the exemption area as specified in § 648.104(b).* * *

8. In § 648.120, paragraphs (b)(1) through (b)(10) are redesignated as paragraphs (b)(2) through (b)(11); paragraph (a) and the heading of paragraph (c) is revised, and new paragraphs (b)(1) and (b)(12) are added to read as follows:

§ 648.120 Catch quotas and other restrictions.

(a) *Review.* The Scup Monitoring Committee shall review the following data, subject to availability, on or before August 15 of each year, unless a TAL already has been established for the upcoming calendar year as part of a multiple-year specification process, provided that new information does not require a modification to the multiple-year quotas: Commercial, recreational and research data; current estimates of fishing mortality; stock status; recent estimates of recruitment; virtual

population analysis results; levels of noncompliance by fishermen or individual states; impact of size/mesh regulations; impact of gear on the mortality of scup; and any other relevant information. This review will be conducted to determine the allowable levels of fishing and other restrictions necessary to achieve the F that produces the maximum yield per recruit (F_{max}).

(b) * * *

(1) Research quota set from a range of 0 to 3 percent of the maximum allowed to achieve the specified exploitation rate.

* * * * *

(12) Total allowable landings on an annual basis for a period not to exceed three years.

(c) *Fishing measures.* * * *

* * * * *

9. In § 648.140, paragraphs (b)(1) through (b)(9) are redesignated as paragraphs (b)(2) through (b)(10) and paragraph (a) and the heading of paragraph (c) are revised, and new paragraphs (b)(1) and (b)(11) are added to read as follows:

§ 648.140 Catch quotas and other restrictions.

(a) *Review.* The Black Sea Bass Monitoring Committee will review the following data, subject to availability, on or before August 15 of each year, unless a TAL already has been established for the upcoming calendar year as part of a multiple-year specification process, provided that new information does not require a modification to the multiple-year quotas, to determine the allowable levels of fishing and other restrictions necessary to result in a target exploitation rate of 23 percent (based on Fmax) in 2003 and subsequent years: Commercial, recreational, and research catch data; current estimates of fishing mortality; stock status; recent estimates of recruitment; virtual population analysis results; levels of noncompliance by fishermen or individual states; impact of size/mesh regulations; sea sampling and winter trawl survey data, or if sea sampling data are unavailable, length frequency information from the winter trawl survey and mesh selectivity analyses; impact of gear other than otter trawls, pots and traps on the mortality of black sea bass; and any other relevant information.

(b) * * *

(1) Research quota set from a range of 0 to 3 percent of the maximum allowed to achieve the specified exploitation rate.

* * * * *

(11) Total allowable landings on an annual basis for a period not to exceed three years.

(c) *Fishing measures.* * * *

* * * * *

[FR Doc. 04–19623 Filed 8–27–04; 8:45 am]

BILLING CODE 3510–22–S

Notices

Federal Register
Vol. 69, No. 167
Monday, August 30, 2004

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

August 23, 2004.

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), *Pamela_Beverly_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.

Agricultural Research Service

Title: Patent License Application.

OMB Control Number: 0518–0003.

Summary of Collection: The U.S. Department of Agriculture grants patent licenses to qualified businesses and individuals who wish to commercialize inventions arising from federally supported research. The Agricultural Research Service (ARS) oversees licensing of federally owned inventions which must be done in accordance with terms, conditions, and procedures prescribed under 37 CFR part 404. Application information must be collected to identify the business or individual desiring the patent license along with a plan for the development and marketing of the invention and a description of the applicant's ability to fulfill the plan.

Need and Use of the Information: ARS will collect identifying information on the applicant, identifying information for the business, and a detailed description for development and/or marketing of the invention using form AD–761, "Patent License Application for Government Invention." The information collected is used to determine whether the applicant has both a complete and sufficient plan for developing and marketing the invention and the necessary manufacturing, marketing, technical, and financial resources to carry out the submitted plan.

Description of Respondents: Business or other for profit; Not-for-profit institutions; Individuals or households; Farms; Federal Government; State, Local or Tribal Government.

Number of Respondents: 75.

Frequency of Responses: Reporting: On occasion.

Total Burden Hours: 225.

Sondra Blakey,

Departmental Information Collection Clearance Officer.

[FR Doc. 04–19644 Filed 8–27–04; 8:45 am]

BILLING CODE 3410–03–P

DEPARTMENT OF AGRICULTURE

Submission for OMB Review; Comment Request

August 24, 2004.

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), *Pamela_Beverly_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.

Animal and Plant Health Inspection Service

Title: Request for Credit Account Approval for Reimbursable Services.

OMB Control Number: 0579–0055.

Summary of Collection: The Debt Collection Improvement Act of 1996

(P.L. 104–134 Section 31001(x) of 31 U.S.C. 7701, requires that agencies collect tax identification numbers from all persons doing business with the Government for purposes of collecting delinquent debts. The services of an inspector to clear imported and exported commodities are covered by user fees during regular working hours. If an importer/exporter wishes to have a shipment of cargo or animals cleared at other hours, such services will usually be provided on a reimbursable overtime basis, unless already covered by a user fee. The Animal and Plant Health Inspection Service (APHIS) will collect information using APHIS form 192, Application for Credit Account and Request for Service.

Need and Use of the Information: APHIS will collect information to conduct a credit check on prospective applicants to ensure creditworthiness prior to extending credit services. Without this information, customers (including small business) will have to pay each time a service is provided.

Description of Respondents: Business or other for-profit; Individuals or households; Not-for-profit institutions; Federal Government.

Number of Respondents: 256.

Frequency of Responses: Reporting: On occasion.

Total Burden Hours: 64.

Animal Plant & Health Inspection Service

Title: Pseudorabies in Swine; Payment to Indemnity.

OMB Control Number: 0579–0137.

Summary of Collection: The United States Department of Agriculture is responsible for preventing the interstate spread of pests and diseases of livestock within the United States and for conducting eradication programs. The Animal and Plant Health Inspection Service (APHIS) established an accelerated pseudorabies program, including the payment of indemnity, to further pseudorabies eradication efforts in cooperation with States and industry and to protect swine not infected with pseudorabies from the disease. Pseudorabies is a contagious, infectious, and communicable disease of livestock, primarily swine. Regulations in 9 CFR part 85 govern the interstate movement of swine and other livestock (cattle, sheep, and goats) in order to help prevent the spread of pseudorabies. APHIS will collect information using several APHIS forms.

Need and Use of the Information: APHIS will collect information on the number of animals being relinquished, their estimated weight, the market price of the animals for the particular week, and the total compensation amount that the owner can expect to receive. If the information were not collected, APHIS would not be able to launch the accelerated pseudorabies eradication program.

Description of Respondents: Business or other for-profit; Farms; State, Local or Tribal Government.

Number of Respondents: 5,700.

Frequency of Responses: Reporting: On occasion.

Total Burden Hours: 3,156.

Sondra Blakey,

Departmental Information Collection Clearance Officer.

[FR Doc. 04–19645 Filed 8–27–04; 8:45 am]

BILLING CODE 3410–34–P

DEPARTMENT OF AGRICULTURE

Submission for OMB Review; Comment Request

August 23, 2004.

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), *Pamela_Beverly_OIRA_Submission@OMB.EOP.GOV* or fax (202) 395–5806 and to Departmental Clearance Office, USDA, OCIO, Mail Stop 7602, Washington, DC 20250–7602. Comments regarding these information collections are best assured of having their full effect if received within 30 days of this notification. Copies of the submission(s) may be obtained by calling (202) 720–8681.

An agency may not conduct or sponsor a collection of information unless the collection of information displays a currently valid OMB control number and the agency informs potential persons who are to respond to the collection of information that such persons are not required to respond to the collection of information unless it displays a currently valid OMB control number.

Grain Inspection, Packers & Stockyards Administration

Title: Regulations and Related Reporting and Recordkeeping Requirements—Packers and Stockyards Programs.

OMB Control Number: 0580–0015.

Summary of Collection: The Grain Inspection, Packers and Stockyards Administration (GIPSA) administers the provisions of the Packers and Stockyards Act of 1921 (7 U.S.C. 181–229) and the regulations under the Act. The Act is designed to protect the financial interests of livestock and poultry producers engaged in commerce of livestock and live poultry sold for slaughter. It also protects members of the livestock and poultry marketing, processing, and merchandising industries from unfair competitive practices. GIPSA will collect information using several forms.

Need and Use of the Information: GIPSA will collect information to monitor and examine financial, competitive and trade practices in the livestock, meatpacking, and poultry industries. Also, the information will help assure that the regulated entities do not engage in unfair, unjustly discriminatory, or deceptive trade practices or anti-competitive behavior.

Description of Respondents: Business or other for-profit.

Number of Respondents: 37,572.

Frequency of Responses: Recordkeeping; Third party disclosure; Reporting: On occasion; Semi-annually; Annually.

Total Burden Hours: 304,789.

Sondra Blakey,

Departmental Information Collection Clearance Officer.

[FR Doc. 04–19646 Filed 8–27–04; 8:45 am]

BILLING CODE 3410–KD–P

DEPARTMENT OF AGRICULTURE

Submission for OMB Review; Comment Request

August 23, 2004.

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), *Pamela_Beverly_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.

Agricultural Marketing Service

Title: Lamb Promotion, Research and Information Program.

OMB Control Number: 0581–0198.

Summary of Collection: The authority for Lamb Promotion, Research, and Information Order is established under the Commodity Promotion, Research, and Information Act of 1996. These programs carry out projects relating to research, consumer information, advertising, producer information, market development, and product research with the goal of maintaining and expanding their existing markets and uses and strengthening their position in the marketplace.

Need and Use of the Information: Various forms will be used to collect information for reporting, background, certification, remittance and nomination and is the minimum information necessary to effectively carry out the requirements of the program. The information is not available from other sources because it relates specifically to individual lamb producers, feeders, seedstock producers, exporters and first handlers.

Description of Respondents: Farms; Individuals or households; Business or other for-profit.

Number of Respondents: 67,486.

Frequency of Responses: Recordkeeping; Reporting: Monthly.

Total Burden Hours: 25,118.

Agricultural Marketing Service

Title: Vegetable and Specialty Crops.

OMB Control Number: 0581–0178.

Summary of Collection: The Agricultural Marketing Agreement Act of 1937 was designed to permit regulation of certain agricultural commodities for the purpose of providing orderly marketing conditions in interstate commerce and improving returns to growers. The Orders and Agreements become effective only after public hearings are held. The marketing order programs provide an opportunity for producers of fresh fruit, vegetables, and specialty crops, in specified production areas to work together to solve marketing problems that cannot be solved individually.

Need and Use of the Information: Various forms are used to collect information necessary to effectively carry out the requirements of the Act and the Order/Agreement. Information collected is used to formulate market policy, track current inventory and statistical data for market development programs, ensure compliance, and verify eligibility, monitor and record grower's information. If information were not collected, it would eliminate data needed to keep the industry and the Secretary abreast of changes at the State and local level.

Description of Respondents: Business or other for profit; Farms; Federal Government; Individuals or households; Not-for-profit institutions.

Number of Respondents: 25,121.

Frequency of Responses: Reporting: On occasion, Quarterly, Biennially, Weekly, Semi-annually, Monthly, Annually and Recordkeeping.

Total Burden Hours: 15,107.

Agricultural Marketing Service

Title: Customer Service Survey for USDA—Donated Food Products.

OMB Control Number: 0581–0182.

Summary of Collection: Each year the Agricultural Marketing Service (AMS) procures about $700 million dollars of poultry, livestock, fruit, and vegetable products for the school lunch and other domestic feeding programs under authority of 7 CFR 250, Regulations for the Donation of Food for Use in the United States, its territories and possessions and areas under its jurisdiction. To maintain and improve the quality of these products, AMS has sought to make this process more customer-driven and therefore is seeking opinions from the users of these products. AMS will use AMS–11, "Customer Opinion Postcard," to collect information. Customers that use USDA-procured commodities to prepare and serve meals retrieve these cards from the boxes and use them to rate their perception of product flavor, texture, and appearance as well as overall satisfaction.

Need and Use of the Information: AMS will collect information on the product type, production lot, and identify the location and type of facility in which the product was served. USDA program managers will use survey responses to maintain and improve product quality through the revision of USDA commodity specifications and follow-up action with producers of designated production lots.

Description of Respondents: State, Local or Tribal Government; Not-for-profit institutions.

Number of Respondents: 8,400.

Frequency of Responses: Reporting: On occasion.

Total Burden Hours: 700.

Sondra Blakey,

Departmental Information Collection Clearance Officer.

[FR Doc. 04–19647 Filed 8–27–04; 8:45 am]

BILLING CODE 3410–02–P

DEPARTMENT OF AGRICULTURE

Forest Service

Notice of Meeting

AGENCY: Notice of Resource Advisory Committee, Sundance, Wyoming, USDA, Forest Service.

ACTION: Notice of meeting.

SUMMARY: Pursuant to the authorities in the Federal Advisory Committee Act (Public Law 92–463) and under the Secure Rural Schools and Community Self-Determination Act of 2000 (Public Law 106–393) the Black Hills National Forests' Crook County Resource Advisory Committee will meet Monday, September 20, 2004 in Sundance, Wyoming for a business meeting. The meeting is open to the public.

SUPPLEMENTARY INFORMATION: The business meeting on September 20, begins at 6:30 p.m. at the U.S. Forest Service, Bearlodge Ranger District office, 121 South 21st Street, Sundance, Wyoming. Agenda topics will include: Updates on previously funded projects, discussion of business order for the

coming year, and election of officers. A public forum will begin at 8:30 p.m. (m.t.).

FOR FURTHER INFORMATION CONTACT: Steve Kozel, Bearlodge District Ranger and Designated Federal Officer, at (307) 283–1361.

Dated: August 23, 2004.

Steve Kozel,

Bearlodge District Ranger.

[FR Doc. 04–19698 Filed 8–27–04; 8:45 am]

BILLING CODE 3410–11–M

DEPARTMENT OF AGRICULTURE

Forest Service

Tehama County Resource Advisory Committee

AGENCY: Forest Service, USDA.

ACTION: Notice of meeting.

SUMMARY: The Tehama County Resource Advisory Committee (RAC) will meet in Red Bluff, California. Agenda items to be covered include: (1) Introductions; (2) Approval of Minutes; (3) Public Comments; (4) Chairman Report; (5) Project Proposal/Possible Action; (6) Review of Projects Funded to Date: (7) General Discussion; (8) Next Agenda.

DATES: The meeting will be held on September 9, 2004 from 9 a.m. and end at approximately 12 p.m.

ADDRESSES: The meeting will be held at the Lincoln Street School, Conference Room A, 1135 Lincoln Street, Red Bluff, CA. Individuals wishing to speak or propose agenda items must send their names and proposals to Jim Giachino, DFO, 825 N. Humboldt Ave., Willows, CA 98988.

FOR FURTHER INFORMATION CONTACT: Bobbin Gaddini, Committee Coordinator, USDA, Mendocino National Forest, Grindstone Ranger District, P.O. Box 164, Elk Creek, CA 95939. (530) 968–5329; e-mail *ggaddini@fs.fed.us.*

SUPPLEMENTARY INFORMATION: The meeting is open to the public. Committee discussion is limited to Forest Service staff and Committee members. However, persons who wish to bring matters to the attention of the committee may file written statements with the Committee staff before or after the meeting. Public input sessions will be provided and individuals who made written requests by September 6, 2004 will have the opportunity to address the committee at those sessions.

Dated: August 23, 2004.

James F. Giachino,

Designated Federal Official.

[FR Doc. 04–19653 Filed 8–27–04; 8:45 am]

BILLING CODE 3410–11–M

DEPARTMENT OF AGRICULTURE

Forest Service

Trinity County Resource Advisory Committee

AGENCY: USDA Forest Service.

ACTION: Notice of Meeting.

SUMMARY: The Trinity County Resource Advisory Committee (RAC) will meet on September 13, 2004 in Weaverville, California. The purpose of the meeting is to discuss the selection of Title II projects under Public law 106–393, H.R. 2389, the Secure Rural Schools and Community Self-Determination Act of 2000, also called the "Payments to States" Act.

DATES: The meeting will be held on September 13, 2004 from 6:30 to 8:30 p.m.

ADDRESSES: The meeting will be held at the Trinity County Office of Education, 201 Memorial Drive, Weaverville, California.

FOR FURTHER INFORMATION CONTACT: Joyce Andersen, Designated Federal Official, USDA, Shasta Trinity National Forests, P.O. Box 1190, Weaverville, CA 96093. Phone: (530) 623–1709. E-mail: *jandersen@fs.fed.us.*

SUPPLEMENTARY INFORMATION: Agenda items include a review of current projects approved by the committee, and a discussion on the use of unexpended funds. The meeting is open to the public. Public input opportunity will be provided and individuals will have the opportunity to address the committee at that time.

Dated: August 23, 2004.

William D. Metz,

Deputy Forest Supervisor.

[FR Doc. 04–19699 Filed 8–27–04; 8:45 am]

BILLING CODE 3410–11–M

COMMISSION ON CIVIL RIGHTS

Agenda and Notice of Public Meeting of the Rocky Mountain Region Advisory Committees (Includes: CO, MT, NM, ND, SD, UT, WY)

Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights, that a conference call of the Rocky Mountain Region State Advisory Committees (which include CO, MT, NM, ND, SD, UT, and WY) will convene at 12 p.m. (MDT) and adjourn at 1:30 p.m. (MDT), Wednesday, September 22, 2004. The purpose of the conference call is to review status of 7-state regional project, Confronting Discrimination in Reservation Border Town Communities, conduct strategic planning, and discuss projected activities and status of Commission and regional programs.

This conference call is available to the public through the following call-in number: 1–800–659–1081; access code: 25866558. Any interested member of the public may call this number and listen to the meeting. Callers can expect to incur charges for calls not initiated using the supplied call-in number or over wireless lines and the Commission will not refund any incurred charges. Callers will incur no charge for calls using the call-in number over land-line connections. Persons with hearing impairments may also follow the proceedings by first calling the Federal Relay Service at 1–800–977–8339 and providing the Service with the conference call number and access code.

To ensure that the Commission secures an appropriate number of lines for the public, persons are asked to register by contacting Evelyn Bohor, Rocky Mountain Regional Office, (303) 866–1040 (TDD 303–866–1049), by 3 p.m. (MDT) on Monday, September 20, 2004.

The meeting will be conducted pursuant to the provisions of the rules and regulations of the Commission.

Dated at Washington, DC, August 23, 2004.

Ivy L. Davis,

Chief, Regional Programs Coordination Unit.

[FR Doc. 04–19707 Filed 8–27–04; 8:45 am]

BILLING CODE 6335–01–P

DEPARTMENT OF COMMERCE

Economic Development Administration

Notice of Petitions by Producing Firms for Determination of Eligibility To Apply for Trade Adjustment Assistance

AGENCY: Economic Development Administration (EDA), Commerce.

ACTION: To give all Interested Parties an Opportunity to Comment.

Petitions have been accepted for filing on the dates indicated from the firms listed below.

LIST OF PETITION ACTION BY TRADE ADJUSTMENT ASSISTANCE FOR PERIOD JULY 23, 2004–AUGUST 20, 2004

Firm name	Address	Date petition accepted	Product
Batching Systems, Inc	50 Jibsail Drive, Prince Frederick, MD 20678.	27–Jul–04	Electronic counting and weighting equipment.
Big Sky Woodcrafters, Inc	305 West Main Street, Laurel, MT 59044.	28–Jul–04	Wooden recognition items such as stands and bases that hold mementos and/or cards and photos, plaques, and cases out of wood.
Johnson Woolen Mills, LLC	P.O. Box 612, Johnson, VT 05656	28–Jul–04	Men's wool coats.
Material Handling Systems, Inc	8715 Bollman Place, Savage, MD 20763.	28–Jul–04	Custom material handling equipment including conveyors, dock equipment, storage and retrieval systems, cranes and hoists.
SinterMet, LLC	North Park Drive, West Hills Industrial Park, Kittanning, PA 16201.	28–Jul–04	Tungsten carbide and composite rolls for rod and bar mills in the steel industry.
Specialty Loose Leaf, Inc	One Cabot Street, Holyoke, MA 01040	28–Jul–04	Scrapbooks.
Ultradent Products, Inc	505 West 10200 South, South Jordan, UT 84095.	28–Jul–04	Dental cements, fillings and other preparations for oral or dental hygiene including pastes and powders.
Botkin Lumber Company, Inc	5943 Busiek Road, Farmington, MO 63640.	30–Jul–04	Wooden pallet stock.
Mark Steel Corporation	1230 W 200 S, Salt Lake City, UT 84116.	30–Jul–04	Steel tanks exceeding 300 liters.
Watman Headwear Corporation	1852 Flushing Avenue, Ridgewood, NY 11385.	30–Jul–04	Hats and headwear.
William Alan, Inc	2408 Ashford Street, High Point, NC 27260.	30–Jul–04	Upholstered and wood household furniture.
Maryland Thermoform Corp	2717 Wilmaarco Avenue, Baltimore, MD 21223.	16–Aug–04	Fabricated plastic products and packaging.
Imperial Schrade Co., Inc	7 Schrade Court, Ellenville, NY 12428	17–Aug–04	Hunting and sporting knives.
G. Leblanc Corporation	7001 Leblanc Boulevard, Kenosha, WI 53142.	18–Aug–04	Brass wind instruments, clarinets and saxophones.
Heath Electronic Manufacturing Corporation.	211 West Arthur Street, Glenns Ferry, Idaho 83623.	18–Aug–04	Electro-medical instrument parts.
Spectra Symbol Corporation	3101 West 2100 South, Salt Lake City, UT 84119.	18–Aug–04	Membrane switches for automatic regulating and control instruments.
Structures of USA, Inc	49 Cardiff Street, Johnstown, PA 15906	18–Aug–04	Steel joist and decking.
Crisi Holding Trust and Subsidiary d.b.a. Acro-Matic Plastics.	31 Jytek Park, Leominster, MA 01453	19–Aug–04	Injection molded parts for motor vehicles.
Valkyrie Company, Inc. (The)	60 Fremont Street, Worcester, MA 01603.	19–Aug–04	Binders, handheld computer cases and wallets/billfolds.

The petitions were submitted pursuant to Section 251 of the Trade Act of 1974 (19 U.S.C. 2341). Consequently, the United States Department of Commerce has initiated separate investigations to determine whether increased imports into the United States of articles like or directly competitive with those produced by each firm contributed importantly to total or partial separation of the firm's workers, or threat thereof, and to a decrease in sales or production of each petitioning firm. Any party having a substantial interest in the proceedings may request a public hearing on the matter. A request for a hearing must be received by Trade Adjustment Assistance, Room 7315, Economic Development Administration, U.S. Department of Commerce, Washington, DC 20230, no later than the close of business of the tenth calendar day following the publication of this notice. The Catalog of Federal Domestic Assistance official program number and title of the program under which these petitions are submitted is 11.313, Trade Adjustment Assistance.

Dated: August 24, 2004.

Anthony J. Meyer,

Senior Program Analyst, Office of Strategic Initiatives.

[FR Doc. 04–19700 Filed 8–27–04; 8:45 am]

BILLING CODE 3510–24–P

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[Docket 37–2004]

Foreign-Trade Zone 50, Long Beach, CA, Request for Manufacturing Authority (Transceiver Radios)

An application has been submitted to the Foreign-Trade Zones Board (the Board) by Metro International Trade Services LLC, operator of FTZ 50, requesting authority on behalf of Maney Aircraft, Inc. (Maney) for the manufacture of multi-mission tactical transceiver radios under FTZ procedures within Site 2 of FTZ 50 in Ontario, California. The application was submitted pursuant to the provisions of the Foreign-Trade Zones Act, as amended (19 U.S.C. 81a–81u), and the regulations of the Board (15 CFR part 400). It was formally filed on August 19, 2004.

Maney operates a 15,000 square foot warehousing and manufacturing facility within Site 2 of FTZ 50 for the manufacture of transceiver radios. The finished products would enter the United States duty free. Imported inputs are projected to comprise 50 percent of the value of finished products produced under FTZ procedures.

The company indicates that the foreign inputs that may be admitted under FTZ procedures include the following: power supplies; tuners; receivers; transmitters; fuses; switches; electrical distribution ducts; junction boxes; microphones; speakers; headsets; audio-frequency electric amplifiers;

electric sound amplifier sets; plastic handles and knobs; lead-acid storage batteries; nickel-cadmium storage batteries; nickel-iron storage batteries; and other storage batteries. Duty rates on the proposed imported components currently range from duty-free to 6.5 percent.

This application requests authority to allow Maney to conduct the activity under FTZ procedures, which would exempt the company from Customs duty payments on the foreign components used in export activity. On its domestic sales, the company would be able to choose the duty rate that applies to finished products for the foreign components noted above. The application also indicates that the company will derive savings from simplification and expediting of the company's import and export procedures. Maney's application states that the above-cited savings from zone procedures could help improve the company's international competitiveness.

In accordance with the Board's regulations, a member of the FTZ Staff has been designated examiner to investigate the application and report to the Board.

Public comment is invited from interested parties. Submissions (original and 3 copies) shall be addressed to the Board's Executive Secretary at one of the following addresses:

1. Submissions Via Express/Package Delivery Services: Foreign-Trade-Zones Board, U.S. Department of Commerce, Franklin Court Building—Suite 4100W, 1099 14th St., NW., Washington, DC 20005; or

2. Submissions Via the U.S. Postal Service: Foreign-Trade-Zones Board, U.S. Department of Commerce, FCB—Suite 4100W, 1401 Constitution Ave., NW., Washington, DC 20230.

The closing period for their receipt is October 29, 2004. Rebuttal comments in response to material submitted during the foregoing period may be submitted during the subsequent 15-day period to November 15, 2004.

A copy of the application and accompanying exhibits will be available for public inspection at the Office of the Foreign-Trade-Zones Board's Executive Secretary at the first address listed above, and at the Los Angeles (Downtown) U.S. Export Assistance Center, 444 S. Flower, 34th Floor, Los Angeles, CA 90071.

Dated: August 23, 2004.

Dennis Puccinelli,

Executive Secretary.

[FR Doc. 04–19727 Filed 8–27–04; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

Foreign-Trade-Zones Board

[Order No. 1345]

Grant of Authority for Subzone Status; Chevron Products Company (Petroleum Storage); Port Everglades, FL

Pursuant to its authority under the Foreign-Trade Zones Act of June 18, 1934, as amended (19 U.S.C. 81a–81u), the Foreign-Trade Zones Board (the Board) adopts the following Order:

Whereas, the Foreign-Trade Zones Act provides for "* * * the establishment * * * of foreign-trade zones in ports of entry of the United States, to expedite and encourage foreign commerce, and for other purposes," and authorizes the Foreign-Trade Zones Board to grant to qualified corporations the privilege of establishing foreign-trade zones in or adjacent to U.S. Customs ports of entry;

Whereas, the Board's regulations (15 CFR part 400) provide for the establishment of special-purpose subzones when existing zone facilities cannot serve the specific use involved, and when the activity results in a significant public benefit and is in the public interest;

Whereas, Broward County, Florida, grantee of Foreign-Trade Zone 25, has made application to the Board for authority to establish special-purpose subzone status at the petroleum product storage facility of Chevron Products Company (Chevron), located in Port Everglades, Florida (FTZ Docket 51–2003, filed 10–02–03).

Whereas, notice inviting public comment has been given in the **Federal Register** (68 FR 58304, 10/09/03); and,

Whereas, the Board adopts the findings and recommendations of the examiner's report, and finds that the requirements of the FTZ Act and the Board's regulations are satisfied, and that approval of the application is in the public interest;

Now, therefore, the Board hereby grants authority for subzone status at the petroleum storage facility of Chevron Products Company (Chevron), located in Port Everglades, Florida, (Subzone 25E), at the location described in the application, subject to the FTZ Act and the Board's regulations, including § 400.28.

Signed at Washington, DC, this 18th day of August 2004.

James J. Jochum,

Assistant Secretary of Commerce for Import Administration, Alternate Chairman, Foreign-Trade Zones Board.

[FR Doc. 04–19724 Filed 8–27–04; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

Foreign-Trade-Zones Board

[Docket 35–2004]

Foreign-Trade-Zone 87—Lake Charles, LA, Expansion of Manufacturing Authority—Subzone 87B, CITGO Petroleum Company, Lake Charles, LA

An application has been submitted to the Foreign-Trade-Zones Board (the Board) by the Lake Charles Harbor & Terminal District, grantee of FTZ 87, requesting authority on behalf of CITGO Petroleum Company (CITGO), to amend the boundaries of the subzone, add a site, and expand the scope of manufacturing activity conducted under zone procedures within Subzone 87B at the CITGO oil refinery complex in Lake Charles, Louisiana. The application was submitted pursuant to the provisions of the Foreign-Trade-Zones Act, as amended (19 U.S.C. 81a-81u), and the regulations of the Board (15 CFR part 400). It was formally filed on August 18, 2004.

Subzone 87B (320,000 BPD capacity 1,500 employees) was approved by the Board in 1989 for the manufacture of fuel products and certain petrochemical feedstocks and refinery by-products (Board Order 420, 54 FR 27660, 6/30/89, as amended by Board Order 760, 60 FR 41054, 8/11/95 and Board Order 1116, 65 FR 52696, 8/30/00).

The subzone, as updated, would consist of six sites on 3,420 acres in Calcasieu Parish, Louisiana: *Site 1:* (2,823 acres) main refinery complex, on the west bank of the Calcasieu River, three miles southwest of Lake Charles; *Site 2*: (22 acres) along the Calcasieu River, adjacent to Site 1; *Site 3*: (135 acres) Clifton Ridge Marine Terminal, along the Calcasieu River, south of Site 1; *Site 4*: (330 acres) CITGO Lubes and Waxes refinery, on Highway 108, north Site 1; *Site 5*: (6 acres) adjoining Highway 108, north of Site 1; *Site 6*: (104 acres) located to the east of Site 1, along the Calcasieu River.

The expansion request involves the construction of new crude and vacuum units that will increase the overall crude distillation capacity of the refinery to 465,000 BPD and allow for increased processing of heavy crudes. No additional feedstocks or products have been requested.

Zone procedures would exempt the new refinery units from Customs duty payments on the foreign products used in its exports. On domestic sales, the company would be able to choose the Customs duty rates for certain petrochemical feedstocks (duty-free) by admitting foreign crude oil in non-

privileged foreign status. The application indicates that the savings from zone procedures help improve the refinery's international competitiveness.

In accordance with the Board's regulations, a member of the FTZ staff has been appointed examiner to investigate the application and report to the Board.

Public comment is invited from interested parties. Submissions (original and 3 copies) shall be addressed to the Board's Executive Secretary at one of the following addresses:

1. Submissions Via Express/Package Delivery Services: Foreign-Trade-Zones Board, U.S. Department of Commerce, Franklin Court Building—Suite 4100W, 1099 14th St. NW., Washington, DC 20005; or

2. Submissions Via the U.S. Postal Service: Foreign-Trade-Zones Board, U.S. Department of Commerce, FCB—Suite 4100W, 1401 Constitution Ave. NW., Washington, DC 20230.

The closing period for their receipt is October 29, 2004. Rebuttal comments in response to material submitted during the foregoing period may be submitted during the subsequent 15-day period (to November 15, 2004.)

A copy of the application and accompanying exhibits will be available for public inspection at the Office of the Foreign-Trade-Zones Board's Executive Secretary at the first address listed above, and at U.S. Customs and Border Protection, 150 Marine St., Lake Charles, LA 70601.

Dated: August 18, 2004.

Dennis Puccinelli,

Executive Secretary.

[FR Doc. 04–19726 Filed 8–27–04; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

Foreign-Trade-Zones Board

[Order No. 1346]

Expansion of Foreign-Trade-Zone 200, Mercer County, NJ

Pursuant to its authority under the Foreign-Trade Zones Act of June 18, 1934, as amended (19 U.S.C. 81a–81u), the Foreign-Trade Zones Board (the Board) adopts the following Order:

Whereas, Mercer County, New Jersey, grantee of Foreign-Trade Zone 200, submitted an application to the Board for authority to expand FTZ 200 to include sites at 1425/1445 Lower Ferry Road and 7 Graphics Drive (Site 2), Marine Terminal Industrial Park (Site 3a), Hill Industrial Park (Site 3b), Northwest Business Park (Site 4a), Windsor Industrial Park (Site 4b), North Gold Industrial Park (Site 4c), New Jersey Turnpike Exit 8—Route 33 Corridor (Site 5), and Hamilton Business Park (Site 6), within the Consolidated Port of the Delaware River and Bay Customs port of entry (FTZ Docket 53–2003, filed 10/3/2003, amended 3/8/2004);

Whereas, notice inviting public comment has been given in the **Federal Register** (68 FR 58652, 10/10/03 and 69 FR 12301, 3/16/04);

Whereas, the Board adopts the findings and recommendations of the examiner's report, and finds that the requirements of the FTZ Act and Board's regulations would be satisfied, and that approval of the application would be in the public interest if subject to a sunset provision;

Now, therefore, the Board hereby orders:

The application to expand FTZ 200 is approved as amended, subject to the FTZ Act and the Board's regulations, including § 400.28 and further subject to a sunset provision that would terminate authority for the proposed sites on August 31, 2009, unless the sites are activated under FTZ procedures.

Signed at Washington, DC, this 18th day of August 2004.

James J. Jochum,

Assistant Secretary for Import Administration, Alternate Chairman, Foreign-Trade Zones Board.

[FR Doc. 04–19725 Filed 8–27–04; 8:45 am]

BILLING CODE 3510–D3–P

DEPARTMENT OF COMMERCE

Foreign-Trade-Zones Board

[Order No. 1347]

Proposals to Facilitate the Use of Foreign-Trade-Zones by Small and Medium-Sized Manufacturers

Pursuant to its authority under the Foreign-Trade Zones Act, of June 18, 1934, as amended (19 U.S.C. 81a–81u), the Foreign-Trade Zones Board (the Board) adopts the following Order:

Whereas, the Foreign-Trade Zones (FTZ) Board (the Board), as part of the Department of Commerce's manufacturing initiative, has performed a benchmark analysis of the FTZ program to determine whether there are features that can be implemented to reduce the program's costs for small and medium-sized manufacturers, thereby helping to improve such companies' international competitiveness;

Whereas, the FTZ Board subsequently published a **Federal Register** notice on April 5, 2004 (69 FR 17643) describing two proposals [1] to implement features identified through the benchmark analysis and inviting public comment on those proposals;

Whereas, the FTZ Board staff has prepared a report ("Enhancing the Foreign-Trade Zones Program for Small and Medium-Sized Manufacturers") recommending adoption of the proposals described in the **Federal Register** notice;

Now, therefore, the FTZ Board adopts the recommendations of the FTZ Board staff report and hereby delegates authority to the FTZ Board's Executive Secretary to grant temporary or interim (T/IM) authority for manufacturing within pre-existing FTZ space, subject to the conditions, restrictions, and limitations described in the Board's **Federal Register** notice (69 FR 17643, 4/5/04) and in the FTZ Board staff report, and further subject to a requirement that the FTZ Board staff will notify the Board members (or their delegates) of all grants of T/IM authority on a quarterly basis. The FTZ Board also authorizes the Executive Secretary to establish enhanced pre-application procedures for small and medium-sized manufacturers as described in the proposal and in the FTZ Board staff report. The effective date for implementation of this order shall be sixty (60) days from the date of publication of this notice.

Signed at Washington, DC, this 18th day of August 2004.

James J. Jochum,

Assistant Secretary of Commerce for Import Administration, Alternate Chairman, Foreign-Trade Zones Board.

[FR Doc. 04–19723 Filed 8–27–04; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

Initiation of Antidumping and Countervailing Duty Administrative Reviews and Requests for Revocation in Part

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

ACTION: Notice of Initiation of Antidumping and Countervailing Duty Administrative Reviews and Requests for Revocation in Part.

[1] The proposals involved: (1) Delegation of limited authority to the Board's Executive Secretary for decision-making on certain requests for manufacturing authority and (2) enhancements to the Board's pre-application procedures for small and medium-sized manufacturers.

SUMMARY: The Department of Commerce (the Department) has received requests to conduct administrative reviews of various antidumping and countervailing duty orders and findings with July anniversary dates. In accordance with the Department's regulations, we are initiating those administrative reviews. The Department also received requests to revoke two antidumping duty orders in part and one countervailing duty order in part.

EFFECTIVE DATE: August 30, 2004.

FOR FURTHER INFORMATION CONTACT: Holly A. Kuga, Office of AD/CVD Enforcement , Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230, telephone: (202) 482–4737.

SUPPLEMENTARY INFORMATION:

Background

The Department has received timely requests, in accordance with 19 CFR 351.213(b)(2002), for administrative reviews of various antidumping and countervailing duty orders and findings with July anniversary dates. The Department also received timely requests to revoke in part the antidumping duty orders on Certain Pasta from Italy (for both the antidumping and countervailing duty orders), and Canned Pineapple Fruit from Thailand.

Initiation of Reviews

In accordance with 19 CFR 351.221(c)(1)(i), we are initiating administrative reviews of the following antidumping and countervailing duty orders and findings. We intend to issue the final results of these reviews not later than July 31, 2005.

	Period to be reviewed
Antidumping Duty Proceedings	
Brazil: Silicon Metal, A–351–806	7/1/03–6/30/04
Camargo Correa Metais S.A.	
Canada: Certain Softwood Lumber,[1] A–122–838	5/1/03–4/30/04
Barry Maedel Woods & Timber	
Lamco Forest Products	
Northland Forest Products Ltd.	
Uniforect Scierie-Pate	
Pleasant Valley Remanufacturing Ltd.	
Lousiana Pacific Corporation	
Lousiana Malakwa	
Specialites G.D.S. Inc.[2]	
Chile: Individual Quick Frozen Red Raspberries, A–337–806	7/1/03–6/30/04
Agricola Nova Ltda.	
Agroindustria Sagrada Familia Ltda.	
Agroindustria Frisac Ltda.	
Agroindustria Frutos del Maipo Ltda.	
Agroindustria Merco Trading Ltda.	
Agross S.A.	
Alimentos Prometeo Ltda.	
Alimentos y Frutos S.A./and its affiliate, Vita Food S.A.	
Andesur S.A.	
Angloeuro Comercio Exterior S.A.	
Armijo Carrasco, Claudio del Carmen	
Arvalan S.A.	
Bajo Cero S.A.	
Certified Pure Ingredients (Chile) Inc. y Cia.	
Chile Andes Foods S.A.	
Comercializadora Agricola Berries & Fruit Ltda.	
Comercializadora de Alimentos del Sur Ltda.	
Comercio y Servicios S.A.	
Copefrut S.A.	
C y C Group S.A.	
Exportaciones Meyer S.A.	
Multifrigo Valparaiso S.A.	
Exportadora Pentagro S.A.	
Agroindustria Framberry Ltd.	
Francisco Nancuvilu Punsin	
Frigorifico Ditzler Ltda.	
Frutas de Guaico S.A.	
Fruticola Olmue S.A.	
Fruticola Viconto S.A.	
Hassler Monckeberg S.A.	
Hortifrut S.A.	
Interagro Comercio Y Ganado S.A.	
Kugar Export Ltda. (Kulenkampff & Gardeweg Ltda.)	
Maria Teresa Ubilla Alarcon	
Prima Agrotrading Ltda.	
Procesadora y Exportadora de Frutas y Vegetales Ltda.	
Santiago Comercio Exterior Exportaciones Ltda.	
Sociedad Agricola Valle del Laja Ltda.	
Sociedad Exportaciones Antiquina Ltda.	
Sociedad San Ernesto Ltda.	
Terra Natur S.A.	

	Period to be reviewed
Terrazas Export S.A.	
Uren Chile S.A.	
Valles Andinos S.A.	
Vital Berry Marketing S.A.	
Rio Teno S.A.	
Nevada Export S.A.	
Agrófruta Chilena Ltda.	
Agroindustrias San Francisco Ltda.	
Agroindustria y Niquen Ltda.	
Agroindustria y Frigorifico M y M Ltda.	
Agrocomercial Las Tinajas Ltda.	
France: Stainless Steel Sheet and Strip in Coils, A–427–814	7/1/03–6/30/04
Ugine & ALZ France S.A.	
Germany: Stainless Steel Sheet and Strip in Coils, A–428–825	7/1/03–6/30/04
Krupp Thyssen Nirosta GmbH	
Thyssen Krupp VDM GmbH	
India: Polyethylene Terephthalate (PET) Film, A–533–824	7/1/03–6/30/04
Ester Industries Ltd.	
Flex Industries Ltd.	
Gareware Polyester Limited	
Jindal Polyester Limited/Jindal Poly Films Limited	
MTZ Polyesters Ltd.	
Polyplex Corporation Ltd.	
SRF Ltd.	
Iran: In-Shell Pistachios, A–507–502	7/1/03–6/30/04
Nima Trading Company	
Italy:	
Certain Pasta, A–475–818	7/1/03–6/30/04
Barilla G.e.R. Fratelli, S.p.A. (formerly Barilla Alimentare, S.p.a.)	
Pastificio Antonio Pallante S.r.L.	
Pastifico Fratelli Pagani S.p.A.	
Industrie Alimentare Colavita, S.p.A./Fusco, S.r.L.	
Pastificio Riscossa F. Illi Mastromauro, S.r.L.	
Pastificio Carmine Russo S.p.A./Pastificio Di Nola S.p.A.	
Corticella Molini e Pastifici S.p.a./Pasta Combattenti S.p.a.	
Stainless Steel Sheet and Strip in Coils, A–475–824	7/1/03–6/30/04
Thyssen Krupp Acciai Speciali Temi S.p.A.	
Japan: Stainless Steel Sheet and Strip in Coils, A–588–845	7/1/03–6/30/04
Kawasaki Steel Corporation (and it's alleged successor-in-interest JFE Steel Corp.)	
Mexico: Stainless Steel Sheet and Strip in Coils, A–201–822	7/1/03–6/30/04
Mexinox S.A. de C.V.	
Taiwan: Stainless Steel Sheet and Strip in Coils, A–583–831	7/1/03–6/30/04
Ta Chen Stainless Pipe Co., Ltd.	
Tung Mung Development Co., Ltd.	
Yieh United Steel Corporation	
Chia Far Industrial Factory Co., Ltd.	
China Steel Corporation	
Emerdex Stainless Flat-Rolled Products, Inc.	
Emerdex Stainless Steel, Inc.	
Emerdex Group	
Tang Eng Iron Works	
PFP Taiwan Co., Ltd.	
Yieh Loong Enterprise Co., Ltd.	
Yieh Trading Corp.	
Goang Jau Shing Enterprise Co., Ltd.	
Yieh Mau Corp.	
Chien Shing Stainless Co.	
Chain Chon Industrial Co., Ltd.	
Thailand:	
Butt-Weld Pipe Fittings, A–549–807	7/1/03–6/30/04
Thai Benkan Company Limited	
Canned Pineapple, A–549–813	7/1/03–6/30/04
The Thai Pineapple Canning Industry Corp., Ltd.	
The Prachuab Fruit Canning Company	
Vita Food Factory (1989) Co., Ltd.	
Furfuryl Alcohol, A–549–812	7/1/03–6/30/04
Indorama Chemicals Thailand Ltd.	
The People's Republic of China:	
Folding Metal Tables and Chairs,[3] A–570–868	6/1/03–5/31/04
Saccharin,[4] A–570–878	12/27/02–6/30/04
Beta Udyog Ltd.	
Daiwa Kenko Company Limited	
Kaifeng Xinghua Fine Chemical Factory	

	Period to be reviewed
Kenko Corporation Productos Aditivos, S.A. Shanghai Fortune Chemical Co., Ltd. Suzhou Fine Chemicals Group Co. Tianjin Changjie Chemical Co., Ltd. Tianjin North Food	
Sebacic Acid,[5] A–570–825	7/1/03–6/30/04
Tianjin Chemicals Import & Export Corporation Guangdong Chemicals Import and Export Corporation	
Turkey: Certain Pasta, A–489–805	7/1/03–6/30/04
Filiz Gida Sanayi ve Ticaret A.S. Tat Konserve, A.S.	
Countervailing Duty Proceedings	
Italy: Certain Pasta, C–475–819	1/1/03–12/31/03
Corticella Molini e Pastifici S.p.a./Pasta Combattenti S.p.a. Pastificio Carmine Russo S.p.A./Pastificio Di Nola S.p.A. Pastificio Antonio Pallante S.r.L. Pasta Lensi S.r.l. (successor to IAPC Italia S.r.l.)	
India: Polyethylene Terephthalate (PET) Film, C–533–825	1/1/03–12/31/03
Ester Industries Ltd. Flex Industries Ltd. Gareware Polyester Limited Jindal Polyester Limited/Jindal Poly Films Limited MTZ Polyesters Ltd. Polyplex Corporation Ltd. SRF Ltd.	
Suspension Agreements	
None.	

[1] The companies listed were inadvertently omitted from the initiation notices that published on 06/30/04 (69 FR 39409) and 07/28/04 (69 FR 45010).

[2] On June 30, 2004 (69 FR 38409), we initiated a review on Specialties G.D.S. Inc. We inadvertently misspelled the company name in that notice. The correct spelling of the company name is listed above.

[3] On July 28, 2004 (69 FR 45010), we initiated an administrative review on Folding Metal Tables and Chairs from the PRC. In that notice the period of review listed was incorrect. The correct POR is listed above.

[4] If one of the above named companies does not qualify for a separate rate, all other exporters of saccharin from the People's Republic of China who have not qualified for a separate rate are deemed to be covered by this review as part of the single PRC entity of which the named exporters are a part.

[5] If one of the above named companies does not qualify for a separate rate, all other exporters of sebacic acid from the People's Republic of China who have not qualified for a separate rate are deemed to be covered by this review as part of the single PRC entity of which the named exporters are a part.

During any administrative review covering all or part of a period falling between the first and second or third and fourth anniversary of the publication of an antidumping order under section 351.211 or a determination under section 351.218(f)(4) to continue an order or suspended investigation (after sunset review), the Secretary, if requested by a domestic interested party within 30 days of the date of publication of the notice of initiation of the review, will determine, consistant with *FAG Italia* v. *United States*, 291 F.3d 806 (Fed. Cir. 202), as appropriate,

whether antidumping duties have been absorbed by an exporter or producer subject to the review if the subject merchandise is sold in the United States through an importer that is affiliated with such exporter or producer. The request must include the name(s) of the exporter or producer for which the inquiry is requested.

Interested parties must submit applications for disclosure under administrative protective orders in accordance with 19 CFR 351.305.

These initiations and this notice are in accordance with section 751(a) of the Tariff Act of 1930, as amended (19 U.S.C. 1675(a)) and 19 CFR 351.221(c)(1)(i).

Dated: August 24, 2004.

Holly A. Kuga,

Senior Office Director, Office 4 for Import Adminstration.

[FR Doc. E4–1977 Filed 8–27–04; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

(A–351–838)

Notice of Amended Preliminary Determination of Sales at Less Than Fair Value: Certain Frozen and Canned Warmwater Shrimp from Brazil

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

ACTION: Notice of Amended Preliminary Determination of Sales at Less Than Fair Value.

EFFECTIVE DATE: August 30, 2004).

FOR FURTHER INFORMATION CONTACT: Kate Johnson or Rebecca Trainor, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone: (202) 482–4929 or (202) 482–4007, respectively.

SUPPLEMENTARY INFORMATION:

Significant Ministerial Error

Pursuant to 19 CFR 351.224(g)(1) and (g)(2), the Department of Commerce (the Department) is amending the preliminary determination of sales at less than fair value in the antidumping duty investigation of certain frozen and canned warmwater shrimp from Brazil to reflect the correction of significant ministerial errors it made in the margin calculations regarding Empresa de Armazenagem Frigorifica Ltda. (EMPAF) and All Others. A ministerial error is defined as an error in addition, subtraction, or other arithmetic function, clerical error resulting from inaccurate copying, duplication, or the like, and any other similar type of unintentional error which the Secretary considers ministerial. *See* 19 CFR 351.224(f). A significant ministerial error is defined as an error, the correction of which, singly or in combination with other errors, would result in (1) a change of at least five absolute percentage points in, but not less than 25 percent of, the weighted–average dumping margin calculated in the original (erroneous) preliminary determination; or (2) a difference between a weighted–average dumping margin of zero or de minimis and a weighted–average dumping margin of greater than de minimis, or vice versa. *See* 19 CFR 351.224(g). We are publishing this amendment to the preliminary determination pursuant to 19 CFR 351.224(e). As a result of this amended preliminary determination, we have revised the antidumping rates for EMPAF and All Others. *See* discussion below.

Ministerial Error Allegations

On July 28, 2004, the Department published its affirmative preliminarily determination in this proceeding. *See Notice of Preliminary Determination of Sales at Less Than Fair Value and Postponement of Final Determination: Certain Frozen and Canned Warmwater Shrimp from Brazil*, 69 FR 47081 (August 4, 2004) (Preliminary Determination).

On July 29, 2004, we disclosed our calculations for the preliminary determination to counsel for EMPAF, Central de Industrializacao e Distribuicao de Alimentos Ltda (CIDA), and Norte Pesca S.A. (Norte Pesca). On August 2, 2004, we disclosed our calculations for the preliminary determination to counsel for petitioners (*i.e.*, Ad Hoc Shrimp Trade Action Committee, Versaggi Shrimp Corporation, and Indian Ridge Shrimp Company).

On August 3, 2004, CIDA and on August 4 and 11, 2004, Norte Pesca alleged that the Department made ministerial errors in calculating their respective margin for the preliminary determination. On August 3, 2004, the Brazilian Shrimp Farmers' Association (ABCC) alleged a ministerial error with respect to the Department's preliminary calculation of the All Others rate. On August 9, 2004, the petitioners filed ministerial error allegations regarding the preliminary margin calculation for EMPAF. Also, on August 9, 2004, the petitioners filed a reply to the respondents' and ABCC's ministerial error allegation submissions filed on August 3 and 4, 2004, but these comments were not considered by the Department in accordance with 19 CFR 351.224(c)(3).

The alleged ministerial errors are as follows. Also *see* Memorandum to Louis Apple and Neal M. Halper from The Team, dated August 20, 2004, for further discussion of the ministerial error allegations and the Department's analysis.

Norte Pesca

1. The Department inappropriately applied an adverse facts available adjustment to the reported material costs.
2. The Department erroneously included the profit and indirect selling expenses of EMPAF in the calculation of constructed value for Norte Pesca.
3. The Department disallowed certain credits received for taxes previously paid, and as a result, costs related to non–subject merchandise were erroneously and inadvertently treated as Norte Pesca's shrimp costs.
4. The Department failed to use Norte Pesca's most recently submitted database.
5. The Department inadvertently included broken shrimp in the dumping margin calculation of Norte Pesca, while excluding broken shrimp from the dumping margin calculation of CIDA.

CIDA

1. The Department mistakenly merged CIDA's cost and sales databases using the wrong control number variables.

ABCC

1. The Department incorrectly used Norte Pesca's dumping margin in the All Others rate calculation.

Petitioners

1. The Department made a programming error in EMPAF's preliminary margin program by incorrectly including an additional packing variable.
2. The Department made a programming error in the assignment of count size codes to EMPAF's sales of head–on shrimp.

The Department has reviewed its preliminary calculations and agrees that certain of the errors which the parties alleged are ministerial errors within the meaning of 19 CFR 351.224(f). After analyzing the submissions cited above, we have determined that ministerial errors were made in the preliminary determination margin calculation for EMPAF. Specifically, (1) we inadvertently included an additional packing variable in the margin program thereby preventing the correct assignment of values to a certain other variables; and (2) we inadvertently failed to convert the reported count sizes for EMPAF's head–on shrimp sales from a per–kilogram to a per–pound basis before assigning the appropriate per–pound count size codes specified in the Department's questionnaire. *See* Memorandum to Louis Apple and Neal M. Halper from The Team, dated August 20, 2004, for further discussion of the petitioners' ministerial error allegations and the Department's analysis. All of the other alleged errors described above with respect to the preliminary margin calculations for Norte Pesca, CIDA and All Others are not ministerial errors, as defined by 19 CFR 351.422(f), and therefore, no correction is warranted with regard to these items.

Pursuant to 19 CFR 351.224(g), the ministerial errors acknowledged above for EMPAF are significant. Therefore, we have recalculated the margin for EMPAF. The Department hereby amends its preliminary determination with respect to EMPAF to correct these errors. We have also amended the All Others rate calculation to reflect these corrections.

The collection of bonds or cash deposits and suspension of liquidation will be revised accordingly and parties will be notified of this determination, in accordance with section 733(d) and (f) of the Tariff Act of 1930, as amended (the Act).

Amended Preliminary Determination

As a result of our correction of ministerial errors in the Preliminary Determination, the revised weighted–average dumping margins are as follows:

Exporter/Manufacturer	Original Weighted–Average Margin Percentage	Amended Weighted–Average Margin Percentage
Empresa de Armazenagem Frigorifica Ltda./Maricultura Netuno S.A.	0.00	12.86
All Others	36.91	23.66

International Trade Commission Notification

In accordance with section 733(f) of the Act, we have notified the International Trade Commission ("ITC") of the amended preliminary determination. If our final determination is affirmative, the ITC will determine before the later of 120 days after the date of the preliminary determination or 45 days after our final determination whether the domestic industry in the United States is materially injured, or threatened with material injury, by reason of imports, or sales (or the likelihood of sales) for importation, of the subject merchandise.

This determination is issued and published in accordance with sections 733(f) and 777(i)(1) of the Act and 19 CFR 351.224(e).

Dated: August 23, 2004.

James J. Jochum,

Assistant Secretary for Import Administration.

[FR Doc. E4–1974 Filed 8–25–04; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

International Trade Administration

(C–549–824)

Preliminary Negative Countervailing Duty Determination and Alignment with Final Antidumping Duty Determination: Bottle–Grade Polyethylene Terephthalate (PET) Resin From Thailand

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

SUMMARY: The Department of Commerce (the Department) preliminarily determines that countervailable subsidies are not being provided to producers and exporters of Bottle–Grade (BG) Polyethylene Terephthalate (PET) Resin from Thailand. For information on the estimated subsidy rates, *see* the "Preliminary Determination" section of this notice.

EFFECTIVE DATE: August 30, 2004.

FOR FURTHER INFORMATION CONTACT: Thomas Gilgunn or Dara Iserson, Office of AD/CVD Enforcement VI, Import Administration, U.S. Department of Commerce, Room 7866, 14th Street and Constitution Avenue, NW, Washington, DC 20230; telephone (202) 482–4236 and (202) 482–4052 respectively.

SUPPLEMENTARY INFORMATION:

Case History

The petition in this investigation was filed on March 24, 2004, by the United States PET Resin Coalition (petitioners). This investigation was initiated on April 14, 2004. *See Notice of Initiation of Countervailing Duty Investigation: Bottle–Grade Polyethylene Terephthalate (PET Resin from India and Thailand (C–533–842) and (C–549–824)*, 69 FR 21086 (April 20, 2004). On April 28, 2004, we issued a questionnaire to the Royal Thai Government (RTG) and requested that the RTG forward the relevant sections of the questionnaire to Thai producers/exporters of BG PET Resin.

On May 21, 2004, petitioners timely requested a 65–day postponement of the preliminary determination for this investigation until August 21, 2004. On June 3, 2004, the Department extended the deadline for the preliminary determination by 67 days to August 23, 2004, since August 21, 2004 falls on a Saturday, in accordance with section 703(c)(1)(A) of the Tariff Act of 1930, as amended (the Act). *See Postponement of Preliminary Countervailing Duty Determinations: Bottle–Grade Polyethylene Terephthalate Resin from India and Thailand*, 69 FR 31354 (June 3, 2004).

On June 14, 2004, the RTG submitted its questionnaire response. The RTG identified three Thai companies that produced and exported BG PET Resin to the United States during the period of investigation, and indicated which programs had been used by these companies. These three companies are Thai Shinkong Industry Corporation Limited (Thai Shinkong), Bangkok Polyester Public Company Limited (Bangkok Polyester), and Indopet (Thailand) Limited (Indopet) (herein after "respondent companies"). These three companies submitted responses on June 14, 2004.

On July 8, 2004, the Department issued supplemental questionnaires to the RTG and the three respondent companies. Thai Shinkong and Bangkok Polyester filed their respective supplemental responses on July 26, 2004. Indopet submitted its supplemental response on July 28, 2004. On July 29, 2004, we received the RTG's supplemental response.

On August 2, 2004, petitioners filed deficiency comments for Thai Shinkong's and the RTG's responses. We received deficiency comments for Bangkok Polyester's responses on August 3, 2004 and for Indopet's questionnaire responses on August 5, 2004.

On August 5, 2004, we issued a second supplemental questionnaire to Thai Shinkong. On August 6, 2004, we issued a second supplemental questionnaire to the RTG. Additionally, on August 9, 2004, and August 10, 2004, we issued second supplemental questionnaires to Bangkok Polyester and Indopet, respectively.

On August 16, 2004, we received a response from Thai Shinkong. We received a response from Indopet on August 17, 2004. Additionally, on August 18, 2004, and on August 19, 2004, we received responses from the RTG and Bangkok Polyester, respectively.

Scope of the Investigation

The merchandise covered by this investigation is BG PET Resin, defined as having an intrinsic viscosity of at least 0.68 deciliters per gram but not more than 0.86 deciliters per gram. The scope includes BG PET Resin that contains various additives introduced in the manufacturing process. The scope does not include post–consumer recycle (PCR) or post–industrial recycle (PIR) PET resin; however, included in the scope is any BG PET Resin blend of virgin PET bottle–grade resin and recycled PET (RPET). Waste and scrap PET is outside the scope of the investigation. Fiber–grade PET resin, which has an intrinsic viscosity of less than 0.68 deciliters per gram, is also outside the scope of the investigations. The merchandise subject to these investigations is properly classified under subheading 3907.60.0010 of the Harmonized Tariff Schedule of the United States (HTSUS); however, merchandise classified under HTSUS subheading 3907.60.0050 that otherwise meets the written description of the scope is also subject to these investigations. Although the HTSUS subheadings are provided for convenience and customs purposes, the written description of the merchandise under investigation is dispositive.

Injury Test

Because Thailand is a "Subsidies Agreement Country" within the meaning of section 701(b) of the Act, the International Trade Commission (ITC) is required to determine whether imports of the subject merchandise from Thailand materially injure, or threaten material injury to, a U.S. industry. On May 19, 2004, the ITC published its preliminary determination that there is a reasonable indication that an industry in the United States is materially injured by reason of imports from India, Indonesia, Taiwan and Thailand of subject merchandise. *See Polyethylene Terephthalate (PET) Resin From India, Indonesia, Taiwan, and Thailand*, 69 FR 28948.

Alignment With Final Antidumping Duty Determinations

On July 30, 2004, petitioners submitted a letter requesting alignment of the final determination in this investigation with the final determination in the companion antidumping duty investigation. Therefore, in accordance with section 705(a)(1) of the Act, we are aligning the final determination in this investigation with the final determinations in the antidumping duty investigations of BG PET Resin from India, Thailand, Taiwan, and Indonesia.

Period of Investigation

The period of investigation (POI) for which we are measuring subsidies is January 1, 2003, through December 31, 2003, which corresponds to the most recently completed fiscal year for the respondent companies. *See* 19 CFR 351.204(b)(2).

Subsidies Valuation Information

Discount Rates

Thai Shinkong, Bangkok Polyester, and Indopet received exemptions from import duties on the importation of capital equipment (under Section 28 of the Investment Promotion Act of 1977 (IPA)), which we have preliminarily determined to be non–recurring benefits in accordance with 19 CFR 351.524(c). For a discussion of our decision to treat these duty exemptions as non–recurring subsidies, *see* "Duty Exemptions on Imports of Machinery Under IPA Section 28" below. All three respondent companies received IPA Section 28 exemptions, collectively in the years 1995 through 2003. Section 351.524(d)(3) of the Department's regulations directs us regarding the selection of a discount rate for the purposes of allocating non–recurring benefits over time. The regulations provide several options in order of preference. The first among these is the cost of long–term fixed–rate loans of the firm in question, excluding any loans which have been determined to be countervailable, for each year in which non–recurring subsidies have been received. None of the respondent companies have provided an annual average cost of long–term fixed–rate baht–denominated loans. Therefore, in accordance with 19 CFR 351.505(a)(3)(ii), we are using national average interest rates. For the years 1997 through 2000, we are using information published by the Bank of Thailand and provided by the RTG. This interest rate information is reported monthly for the years specified; we have calculated simple averages of the monthly data to obtain an annual average. The RTG did not provide information for the years 1995, 1996, and 2001 through 2003; therefore, we are using the annual average long–term interest rate information from the *International Monetary Fund's* publication International Financial Statistics for those years.

Allocation Period

Pursuant to 19 CFR 351.524(b), non–recurring subsidies are allocated over a period corresponding to the average useful life (AUL) of the renewable physical assets used to produce the subject merchandise. The regulatory provision at 19 CFR 351.524(d)(2) creates a rebuttable presumption that the AUL will be taken from the U.S. Internal Revenue Service's 1977 Class Life Asset Depreciation Range System (the IRS Tables). For assets used to manufacture products such as BG PET Resin, the IRS Tables prescribe an AUL of 10 years. Only Indopet disputes this allocation period. However, Indopet did not provide the data to demonstrate that its proposed alternative company–specific AUL was calculated in accordance with the requirements of 19 CFR 351.524(d)(2)(iii). Therefore, we have used the 10–year allocation period for all respondent companies.

Denominator

When selecting an appropriate denominator for use in calculating the *ad valorem* countervailable subsidy rate, the Department considered the basis for the respondent companies' approval for benefits under the Investment Promotion Act of 1977 (IPA). The benefits approved for all three respondent companies were tied to their production of BG PET Resin, the merchandise subject to this investigation. Therefore, BG PET Resin is the companies' "promoted" business, and we find that the benefits are tied to sales of subject merchandise in accordance with 19 CFR 351.525 of the Department's regulations. Thus, the appropriate denominator would be sales of BG PET Resin. However, two of the companies were approved for IPA benefits contingent upon specific exportation requirements, rendering their subsidies export subsidies (see "Investment Incentives Under the Investment Promotion Act (IPA)" in the "Programs Preliminarily Determined to be Countervailable" section, below). Thus, for Thai Shinkong and Bangkok Polyester, the appropriate denominator for calculating the *ad valorem* countervailable subsidy rate is total exports of subject merchandise. *See* 19 CFR 351.525.

Cross–Ownership and Attribution of Subsidies

Based on business proprietary information on the record, there may be a potential cross–ownership issue with respect to one of the respondent companies. For purposes of this preliminary determination, we do not have enough information in the record to analyze this issue. We will continue to gather information in order to fully analyze this issue for the purposes of the final determination.

Programs Preliminarily Determined To Be Countervailable

Investment Incentives Under the Investment Promotion Act (IPA)

According to the questionnaire responses, the IPA is administered by the Board of Investment (BOI) and is designed to provide incentives to invest in Thailand. In order to receive IPA benefits, each company must apply to the BOI for a Certificate of Promotion, which specifies goods to be produced, any specific conditions concerning production and sales, and benefits approved. These certificates are granted at the discretion of the BOI and are periodically amended or reissued to change or extend benefits or requirements. The approval of the application by the BOI confers "promoted" status on the recipient. Once granted "promoted" status, a company may receive IPA benefits including import duty exemptions, income tax exemptions, and other tax benefits under various sections of the IPA. Each IPA benefit for which a company is eligible must be specifically stated in the Certificate.

All three respondent companies applied for and received "promoted" company status. Their Certificates indicate the specific sections of the IPA

under which they are eligible for benefits. We initiated an investigation of sections 28, 30, 31, 35 and 36 of the IPA.

When determining whether a program is countervailable, we must examine whether it is an import substitution or export subsidy, whether it provides benefits to a specific enterprise, industry, or group thereof, either in law (*de jure* specificity) or in fact (*de facto* specificity) or whether it is regionally specific. *See* section 771(5A) of the Act. Under section 771(5A)(B) of the Act, a subsidy is an export subsidy if it is "in law or in fact contingent upon export performance alone or as 1 of 2 or more conditions."

There is no element of the IPA explicitly limiting eligibility for IPA program benefits to an enterprise, industry, or group thereof. The legislation of the IPA does not mandate export of the products covered by a certificate, however; some specific sections of the IPA contain express export requirements. Chapter 2 of the 1991 IPA law governs the procedures for granting "promoted" status to applicants. "Promoted" status is required in order for a company to take advantage of any programs offered under the IPA, including those programs that carry an export commitment. Chapter 2 of the 1991 IPA includes exportation as one of the criteria to be considered in granting "promoted" status to a company. In addition, in 1993 the BOI issued BOI Announcement 1/1993, "Policies and Criteria for Investment Promotion," to update the standards for granting "promoted" status. The update contained a section requiring a commitment to export at least 50 percent of the manufactured product where the majority of a company's shares is held by foreign investors. Chapter 2 of the 1991 IPA and BOI Announcement 1/1993, updating the policies and criteria, were in effect when the responding companies applied for and received "promoted company" status.

Because the IPA does not generally require an export commitment, we have not found it to be an export subsidy *per se*. However, an applicant may take on an export commitment as a basis for receiving "promoted" status. Therefore, it was necessary to analyze the application and approval experiences of the individual companies to determine if, in law or in fact, the granting of "promoted" status was contingent on export performance. If receipt of IPA program benefits was contingent upon export performance then all of the benefits the company receives under the IPA constitute export subsidies within the meaning of section 771(5A)(B) of the Act. *Compare Final Affirmative Countervailing Duty Determination: Stainless Steel Plate in Coils from South Africa*, 64 FR 15553, 15556 (March 3, 1999).

Thai Shinkong's application for "promoted" status indicates that it is a company with majority foreign ownership. In accordance with Announcement 1/1993, Thai Shinkong's application also indicated that Thai Shinkong intended to export a substantial portion of its BG PET Resin production. Although Thai Shinkong's Promotion Certificate does not include a stipulation to export, we note that Announcement 1/1993 mandates an export requirement of 50 percent for majority foreign–owned companies. Thus, Thai Shinkong's "promoted" status was conditioned upon a legal obligation to export BG PET Resin. Therefore, we preliminarily determine that Thai Shinkong's specific package of IPA benefits was conditioned upon an export contingency, that the export requirement is *de jure* and, therefore, that all benefits received by Thai Shinkong under the IPA are specific as export subsidies within the meaning of section 771(5A)(B) of the Act.

Bangkok Polyester's application for "promoted" status included a commitment to export a significant portion of its BG PET Resin production. Moreover, the Certificate granting "promoted" status to Bangkok Polyester and access to IPA programs clearly stipulates that a certain percentage of Bangkok Polyester's production must be exported. Therefore, Bangkok Polyester's access to IPA benefits was contingent upon an obligation to export BG PET Resin. For these reasons, we preliminarily determine that Bangkok Polyester's specific package of IPA benefits was conditioned upon an export contingency, that there was a *de facto* export requirement, and, therefore, that all benefits received by Bangkok Polyester under the IPA are specific as export subsidies pursuant to section 771(5A)(B) of the Act.

Indopet's application for "promoted" company status did not include any commitment to export. Nor does Indopet's promotion certificate contain any export conditions. The RTG has reported that Indopet was approved for "promoted" company status under Section 6.17 of the BOI's Announcement No. 2/1993, which contains a "List of Activities Eligible for Investment Promotion." This announcement lists the categories and conditions of activities eligible for promotion. While for some of the products the list indicates that there are no conditions for obtaining "promoted" company status, most of the products included in this list are followed by a condition that the applicant must be located in a particular investment zone, for example, "must be located in Zone 2 or 3" or "must be located in Zone 3." BG PET Resin is covered by section 6.17 of Announcement No. 2/1993. Moreover, Indopet's promotion certificate, which sets forth the IPA benefits for which it has been approved, states that the plant must be located in Investment Zone 3. Accordingly, we find that Indopet could not have received any IPA benefits unless it located in Investment Zone 3. Thus, we find that the benefits to Indopet under the IPA are *de jure* specific as regional subsidies, within the meaning of section 771(5A)(D)(iv) of the Act.

Because the benefits were composed of different types of incentives under different sections of the IPA, we are analyzing the issues of financial contribution and benefit under each relevant section.

A. Duty Exemptions on Imports of Machinery Under IPA Section 28

IPA Section 28 allows companies to import machinery and equipment (fixed assets) with an exemption of import duties. According to the questionnaire responses, Thai Shinkong, Bangkok Polyester, and Indopet received import duty exemptions under IPA Section 28 during the years since their initial certificates were issued. Import duty exemptions provide a financial contribution under section 771(5)(D)(ii) of the Act in the form of foregone revenue that is otherwise due to the RTG. The benefit is the extent to which the import charges paid by the firms as result of the program are less than what they would have paid in the absence of the program. *See* 19 CFR 351.510(a). Since these import duty exemptions were for the purchase of capital equipment, we are treating these exemptions as non–recurring benefits in accordance with 19 CFR 351.524(c)(2)(iii). The preamble to our regulations states that if a government provides an import duty exemption tied to major equipment purchases, "it may be reasonable to conclude that, because these duty exemptions are tied to capital assets, the benefits from such duty exemptions should be considered non–recurring." *See Countervailing Duties; Final Rule*, 63 FR 65348, 65393 (November 25, 1998) (*Preamble*). The benefit received from the exemption of import duties under IPA Section 28 is tied to the capital assets of the respondent companies. Accordingly, we preliminarily determine that it is

appropriate to treat the exemption of duties on capital equipment as a non–recurring benefit. *See also Certain Hot–Rolled Carbon Steel Flat Products from Thailand: Final Affirmative Countervailing Duty Determination*, 66 FR 50410 (October 6, 2001).

To measure the benefit allocable to the POI, we first conducted the "0.5 percent test" for each year a company received Section 28 import duty exemptions. *See* 19 CFR 351.524(b)(2). For each year in which a company received section 28 import duty exemptions, we summed the value of the company's duty exemptions provided in that year and divided that sum by the relevant total sales for that year (export sales of subject merchandise for Bangkok Polyester and Thai Shinkong and total sales of subject merchandise for Indopet) (*see* "Subsidies Valuation" section above). As a result, we found that, for certain companies in certain years, Section 28 import duty exemptions should be allocated over time. For those years, we allocated the annual total exemptions, in accordance with 19 CFR 351.524(d), to determine the Section 28 benefits attributable to the POI (*see* "Allocation Period" section above). In addition, for exemptions received during the POI, if they did not pass the "0.5 percent test," we attributed the total value of the exemptions to the POI. For each company, we then summed the benefits allocable to the POI and divided that amount by the appropriate total sales of subject merchandise or exports of subject merchandise during the POI (*see* "Subsidies Valuation Section" above). Thus, we preliminarily determine a countervailable subsidy of 0.31 percent *ad valorem* for Bangkok Polyester, 0.06 percent *ad valorem* for Indopet and 0.09 percent *ad valorem* for Thai Shinkong.

B. Additional Income Tax Deductions Under IPA Section 35

IPA Section 35 provides various income tax deductions and exemptions for "promoted" firms. Section 35(2) allows a 50 percent reduction in the income tax rate for the period of five years from the expiry date of the full income tax exemptions available under Section 31.

Section 35(3) allows "promoted" companies to deduct from taxable income double the cost of transportation, electricity, and water for ten years after the "promoted" company first derives income. Section 35(4) allows for an additional deduction of 25 percent of the cost of installation and construction of the "promoted" facilities. (IPA Section 35(1) was repealed by an earlier amendment.) During the POI, Thai Shinkong, Bangkok Polyester and Indopet claimed benefits under Section 35(3) on their tax returns filed during the POI. None of the companies used the benefits available under sections 35(2) or (4).

Income tax deductions provide a financial contribution under section 771(5)(D)(ii) of the Act in the form of foregone revenue that is otherwise due to the RTG. The benefit is the extent to which the taxes paid by the firms as a result of the program are less than the tax the firms would otherwise pay in the absence of the program. *See* 19 CFR 351.509(a)(1). Under the provisions of 19 CFR 351.509(a)(1), we preliminarily determine that the section 35(3) tax deductions constitute a benefit.

To measure the benefit, we followed the methodology outlined in the *Final Affirmative Countervailing Duty Determination and Countervailing Duty Order; Extruded Rubber Thread from Malaysia*, 57 FR 38475 (August 25, 1992). We examined Thai Shinkong's, Bangkok Polyester's, and Indopet's 2002 tax returns, which were filed during the POI. We then determined the extent to which the countervailable tax deduction under Section 35(3) reduced the companies' taxable income by removing the Section 35(3) deductions claimed on the tax return filed during the POI. *See id.*, at 57 FR 38480 (Department's Position at Comment 13); *see also Extruded Rubber Thread From Malaysia; Final Results of Countervailing Duty Administrative Review*, 60 FR 17516, 17518 (April 6, 1995) (Department's Position at Comment 7). To the extent that a company was in a tax–paying position before and after we removed the Section 35(3) deductions from its tax calculation for 2002, we calculated the benefit by multiplying the Thai tax rate by the difference between the taxable income calculated by the company and the taxable income calculated after removing the Section 35(3) deductions. To the extent that a company in a tax loss position had taxable income after we removed the Section 35(3) deductions from the 2002 tax calculation, we calculated the benefit by multiplying the Thai tax rate by the taxable income resulting from our calculation.

To the extent that a company carried losses forward from prior years to offset taxable income in 2002, we removed prior year Section 35(3) deductions from the prior years' losses. If this removal resulted in taxable income in 2002, we then calculated the benefit by multiplying the Thai tax rate by that income. If the result was a tax loss, then the company received no benefit from this program during the POI. To determine the countervailable subsidy rate, we then divided each company's benefit by the appropriate total sales of subject merchandise or exports of subject merchandise (*see* "Subsidies Valuation" section above). Thus, we preliminarily determine the countervailable subsidy to be 0.26 percent *ad valorem* for Bangkok Polyester, 0.31 percent *ad valorem* for Indopet, and zero for Thai Shinkong.

Program Preliminarily Determined To Be Not Countervailable

Duty Exemptions on Imports of Raw and Essential Materials Under IPA Section 36

In our initiation checklist, we indicated that we were initiating on Section 30 of the IPA, which provides duty exemptions on imports of raw material. The RTG reported that none of the Thai BG PET Resin producers/exporters received benefits under Section 30 of the IPA, but all three had received the same type of benefits under Section 36 of the IPA. We subsequently determined it was appropriate to investigate Section 36 of the IPA. *See* Memorandum from Dana Mermelstein to Barbara Tillman, *Countervailing Duty Investigation of Bottle–Grade Polyethylene Terephthalate (PET) Resin from Thailand: Initiation of Investigation of Section 36 of the Investment Promotion Act*, dated July 8, 2004, and on file in the Central Records Unit.

Section 36 provides companies with export–specific import duty and tax exemptions. Section 36(1) allows companies to import raw and essential materials that are incorporated into goods for export with exemptions on import duties. Thai Shinkong, Bangkok Polyester, and Indopet received duty exemptions on imports of raw and essential materials under Section 36(1). Thai Shinkong, Bangkok Polyester, and Indopet each reported that they received exemptions under Section 36(1) on their imports of goods that were consumed in the production of merchandise for export. The RTG reported that Section 36(1) essentially operates as a duty drawback scheme and, as such, is not countervailable, as the exemptions on imported raw and essential materials can only be received for imported goods consumed in the production of exports. The RTG and the respondent companies have provided information about the system in place to monitor and track the consumption and/or re–export of goods imported under section 36(1), making normal allowances for waste. Based on the information on the record to date,

we preliminarily determine that this program is not countervailable within the meaning of 19 CFR 351.519(a)(4). However, we have a number of concerns about how the RTG confirms that the imported inputs are consumed in production of exports, and that the waste allowances are reasonable. Therefore, we will continue to gather data and analyze the information in the record, and we will verify the manner in which the RTG administers this duty drawback program and the system it uses to monitor and track the consumption and/or re–export of goods imported, making normal allowance for waste.

Programs Preliminarily Determined To Be Not Used

We preliminarily determine that the producers/exporters of BG PET Resin did not apply for or receive benefits, during the POI, under the programs listed below.

A. Import Duty Exemptions on Raw and Essential Materials Under IPA Section 30

B. Corporate Income Tax Exemptions Under IPA Section 31

For purposes of this preliminary determination, we have relied on the RTG and respondent companies' responses to preliminarily determine non–use of the programs listed above. During the course of verification, the Department will examine whether these programs were not used by respondent companies during the POI.

Verification

In accordance with section 782(i) of the Act, we will verify the information submitted prior to making our final determination.

Preliminary Determination

In accordance with section 703(d)(1)(A)(i) of the Act, we have determined individual rates for Thai Shinkong, Bangkok Polyester, and Indopet. Section 705(c)(5)(A)(i) provides that the all others rate will generally be an amount equal to the weighted average countervailable subsidy rates established for exporters or producers individually investigated, excluding any zero or *de minimis* countervailable subsidy rates and any rates determined entirely on the basis of the facts available. In this case, however, the countervailable subsidy rates for all of the individually investigated exporters or producers are *de minimis*. Section 705(c)(5)(A)(ii) provides that, when this is the case, the administering authority may use any reasonable method to establish the all others rate, including averaging the weighted average countervailable subsidy rates determined for the exporters and producers individually examined. Thus, to calculate the all–others rate, we weight–averaged the individual rates of Thai Shinkong, Bangkok Polyester, and Indopet based on each company's respective exports of subject merchandise to the United States during the POI. These rates are summarized in the table below:

Producer/Exporter	Net Subsidy Rate
Thai Shinkong Industry Corporation Ltd	00.09 % ad valorem
Bangkok Polyester Public Company Limited	00.57 % ad valorem
Indopet (Thailand) Limited	00.37 % ad valorem
All Others Rate	00.26 % ad valorem

These countervailable subsidy rates are *de minimis* in accordance with section 703(b)(4)(B) of the Act and 19 CFR 351.106(b). Therefore, we preliminarily determine that countervailable subsidies are not being provided to producers or exporters of BG PET Resin from Thailand. Thus, we will not direct U.S. Customs and Border Protection to suspend liquidation of entries of the subject merchandise from Thailand.

ITC Notification

In accordance with section 703(f) of the Act, we will notify the ITC of our determination. In addition, we are making available to the ITC all non–privileged and non–proprietary information relating to this investigation. We will allow the ITC access to all privileged and business proprietary information in our files, provided the ITC confirms that it will not disclose such information, either publicly or under an administrative protective order, without the written consent of the Assistant Secretary for Import Administration.

In accordance with section 705(b)(3) of the Act, if our final determination is negative, the ITC will make its final determination within 75 days after the Department makes its final determination.

Notification of Parties

In accordance with 19 CFR 351.224(b), the Department will disclose to the parties the calculations for this preliminary determination within five days of its announcement. Unless otherwise notified by the Department, interested parties may submit case briefs within 50 days of the date of publication of the preliminary determination in accordance with 19 CFR 351.309(c)(i). As part of the case brief, parties are encouraged to provide a summary of the arguments not to exceed five pages and a table of statutes, regulations, and cases cited. Rebuttal briefs, which must be limited to issues raised in the case briefs, must be filed within five days after the case brief is filed.

In accordance with 19 CFR 351.310, we will hold a public hearing, if requested, to afford interested parties an opportunity to comment on this preliminary determination. Individuals who wish to request a hearing must submit a written request within 30 days of the publication of this notice in the **Federal Register** to the Assistant Secretary for Import Administration, U.S. Department of Commerce, Room 1870, 14th Street and Constitution Avenue, NW, Washington, DC 20230. Parties will be notified of the schedule for the hearing and parties should confirm by telephone the time, date, and place of the hearing 48 hours before the scheduled time. Requests for a public hearing should contain: (1) party's name, address, and telephone number; (2) the number of participants; and (3) to the extent practicable, an identification of the arguments to be raised at the hearing.

This determination is issued and published pursuant to sections 703(f) and 777(i) of the Act.

Dated: August 23, 2004.

James J. Jochum,

Assistant Secretary for Import Administration.

[FR Doc. E4–1976 Filed 8–27–04; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

International Trade Administration

[C–533–842]

Notice of Preliminary Affirmative Countervailing Duty Determination and Alignment With Final Antidumping Duty Determination: Bottle-Grade Polyethylene Terephthalate ("PET") Resin From India

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

SUMMARY: The Department of Commerce (the Department) preliminarily determines that countervailable subsidies are being provided to producers and exporters of Bottle-Grade Polyethylene Terephthalate (PET) Resin

(BG PET Resin) from India. For information on the estimated subsidy rates, see the "Suspension of Liquidation" section of this notice.

EFFECTIVE DATE: August 30, 2004.

FOR FURTHER INFORMATION CONTACT: Douglas Kirby or Addilyn Chams-Eddine, Office of AD/CVD Enforcement VI, Import Administration, U.S. Department of Commerce, Room 7866, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone (202) 482–3782 and (202) 482–0648 respectively.

SUPPLEMENTARY INFORMATION:

Case History

The petition in this investigation was filed on March 24, 2004, by the United States PET Resin Producers Coalition (Petitioner). This investigation was initiated on April 13, 2004. *See Notice of Initiation of Countervailing Duty Investigations: Bottle-Grade Polyethylene Terephthalate (PET) Resin from India (C–533–842) and Thailand (C–549–824)*, 69 FR 21096 (April 20, 2004). On April 28, 2004, we issued a questionnaire to the Government of India (GOI) and requested that the GOI forward the relevant sections of the questionnaire to Indian producers/exporters of BG PET Resin.

On May 21, 2004, petitioner timely requested a 65-day postponement of the preliminary determination for this investigation until August 21, 2004. On June 3, 2004, the Department extended the deadline for the preliminary determination by 67 days to August 23, 2004, since August 21st falls on a Saturday, in accordance with section 703(c)(1)(A) of the Tariff Act of 1930, as amended (the Act). *See Postponement of Preliminary Countervailing Duty Determinations: Bottle-Grade Polyethylene Terephthalate Resin from India and Thailand*, 69 FR 31354 (June 3, 2004).

On June 21, 2004, the GOI submitted its questionnaire response. In its questionnaire response, the GOI identified four Indian companies that produced and exported BG PET Resin to the United States during the period of investigation (POI), and indicated which programs had been used by these companies. These four companies are Reliance Industries, Ltd. (Reliance), Futura Polyesters, Ltd. (Futura), South Asia Petrochem Ltd. (SAPL), and Elque Polyesters Ltd. (Elque). In addition, all of the four companies identified by the GOI submitted questionnaire responses to the Department.

Between July 8, and July 15, 2004, the Department issued supplemental questionnaires to the GOI and the four respondent companies. Between July 27, and August 2, 2004, the GOI and the four respondent companies submitted their responses to the supplemental questionnaires.

Between July 23, and August 3, 2004, the Department issued addenda to the supplemental questionnaires to the four respondent companies. Responses were submitted between August 4, and August 14, 2004.

Scope of the Investigation

The merchandise covered by this investigation is bottle-grade polyethylene terephthalate (PET) resin, defined as having an intrinsic viscosity of at least 0.68 deciliters per gram but not more than 0.86 deciliters per gram. The scope includes bottle-grade PET resin that contains various additives introduced in the manufacturing process. The scope does not include post-consumer recycle (PCR) or post-industrial recycle (PIR) PET resin; however, included in the scope is any bottle-grade PET resin blend of virgin PET bottle-grade resin and recycled PET (RPET). Waste and scrap PET is outside the scope of the investigation. Fiber-grade PET resin, which has an intrinsic viscosity of less than 0.68 deciliters per gram, is also outside the scope of the investigation.

The merchandise subject to this investigation is properly classified under subheading 3907.60.0010 of the Harmonized Tariff Schedule of the United States (HTSUS); however, merchandise classified under HTSUS subheading 3907.60.0050 that otherwise meets the written description of the scope is also subject to this investigation. Although the HTSUS subheadings are provided for convenience and customs purposes, the written description of the merchandise under investigation is dispositive.

Injury Test

Because India is a "Subsidies Agreement Country" within the meaning of section 701(b) of the Act, the International Trade Commission (ITC) is required to determine whether imports of the subject merchandise from India materially injure, or threaten material injury, to a U.S. industry. On May 19, 2004, the ITC published its preliminary determination that there is a reasonable indication that an industry in the United States is materially injured by reason of imports from India, Indonesia, Taiwan, and Thailand of subject merchandise. *See Polyethylene Terephthalate (PET) Resin From India, Indonesia, Taiwan, and Thailand*, 69 FR 28948.

Alignment With Final Antidumping Duty Determinations

On July 30, 2004, petitioner submitted a letter requesting alignment of the final determination in this investigation with the final determination in the companion antidumping duty investigation. Therefore, in accordance with section 705(a)(1) of the Act, we are aligning the final determination in this investigation with the final determinations in the antidumping duty investigations of BG PET Resin from India, Thailand, Taiwan, and Indonesia.

Period of Investigation

The period of investigation (POI) for which we are measuring subsidies is April 1, 2003, through March 31, 2004, which corresponds to the most recently completed fiscal year for all of the respondents. *See* 19 CFR 351.204(b)(2).

Subsidies Valuation Information

Benchmarks for Loans and Discount Rate

For those programs requiring the application of a benchmark interest rate, 19 CFR 351.505(a)(1) provides a preference for using an interest rate that the company could have obtained on a comparable loan in the commercial market. Both Futura and SAPL have provided information on rupee-denominated short-term commercial loans outstanding during the POI. Thus, in accordance with 19 CFR 351.505(a)(1), we are using these interest rates as company-specific benchmarks for purposes of calculating benefits arising from the rupee-denominated short term loan programs we find countervailable. SAPL and Futura are the only two producers/exporters of BG PET Resin which reported using these short-term loan programs. SAPL also received short-term loans denominated in U.S. dollars. When loans are denominated in a foreign currency, our practice, in accordance with 19 CFR 351.505, is to use a foreign currency benchmark. *See, e.g., Certain Pasta From Turkey: Final Results of Countervailing Duty Administrative Review*, 66 FR 64398 (December 13, 2001) and accompanying Issues and Decision Memorandum in the section entitled "Benchmark Interest Rates for Short-term Loans." For these loans, we used as our benchmark a national average dollar-denominated short-term interest rate for the United States, as reported in the International Monetary Fund's publication *International Financial Statistics*.

For those programs requiring a rupee-denominated discount rate or the application of a rupee-denominated,

long-term benchmark interest rate, we used, where available, company-specific, weighted-average interest rates on comparable commercial long-term, rupee-denominated loans. We did not use those long-term loans that had unpaid interest or principal payments because we do not consider such loans to be comparable loans under section 771(5)(E)(ii) of the Act and 19 CFR 351.505(a)(2)(i). We note that some respondents did not have rupee-denominated, comparable long-term loans from commercial banks for all required years. Therefore, for those years, we relied on a rupee-denominated, short to medium-term benchmark interest rate that is not company-specific, but still provides a reasonable representation of long-term interest rates, in order to determine whether a benefit was provided to the companies from rupee-denominated, long-term loans received from the GOI. Pursuant to 19 CFR 351.505(a)(3)(ii), we used national average interest rates for those years in which the respondents did not report company-specific interest rates on comparable commercial loans. In the absence of data regarding a national average interest rate for long-term rupee-denominated loans, we based these national average interest rates on information on short-to medium-term, rupee-denominated financing from private creditors in the International Monetary Fund's publication *International Financial Statistics*. We will continue to seek information regarding the most appropriate long-term interest rate for purposes of the final determination.

Allocation Period

Under 19 CFR 351.524(d)(2)(i), we will presume the allocation period for non-recurring subsidies to be the average useful life (AUL) of renewable physical assets for the industry concerned, as listed in the Internal Revenue Service's (IRS) 1977 Class Life Asset Depreciation Range System, as updated by the Department of the Treasury. The presumption will apply unless a party claims and establishes that these tables do not reasonably reflect the AUL of the renewable physical assets for the company or industry under investigation, and the party can establish that the difference between the company-specific or country-wide AUL for the industry under investigation is significant, pursuant to 19 CFR 351.524(d)(2)(ii). For assets used to manufacture products such as BG PET resin, the IRS tables prescribe an AUL of 10 years.

In their questionnaire responses, SAPL, Futura, and Elque rebutted the regulatory presumption by meeting the criteria set forth in CFR 351.524(d)(2)(iii) and calculating company-specific AULs. Futura and Elque divided the aggregate of their respective annual average gross book values of their depreciable productive fixed assets by their aggregated annual charge to accumulated depreciation for a ten-year period in the manner specified by 19 CFR 351.524(d)(2)(iii). Using this method, Elque calculated an AUL of 20 years, and Futura calculated an AUL of 17 years. Based on information submitted by the respondents, we find the presumptions to be rebutted by those two companies and are using the company-specific AULs for Elque and Futura for purposes of allocating any non-recurring subsidies over time. Reliance and SAPL provided information in an attempt to rebut the AUL presumption, but did not comply with the requirements specified by 19 CFR 351.524(d)(2)(iii) for calculating a company-specific AUL. Thus, for SAPL and Reliance we will use the IRS AUL of 10 years to allocate any non-recurring subsidies for purposes of this preliminary determination.

I. Programs Preliminarily Determined To Be Countervailable

A. GOI Programs

1. Duty Entitlement Passbook Scheme (DEPS)

India's DEPS was enacted on April 1, 1997, as a successor to the Passbook Scheme (PBS). As with PBS, the DEPS enables exporting companies to earn import duty exemptions in the form of passbook credits rather than cash. All exporters are eligible to earn DEPS credits on a post-export basis, provided that the GOI has established a standard input/output norm (SION) for the exported product. DEPS credits can be used for any subsequent imports, regardless of whether they are consumed in the production of an export product. DEPS credits are valid for twelve months and are transferable after the foreign exchange is realized from the export sales on which the DEPS credits are earned. With respect to subject merchandise, the GOI has established a SION. Beginning in April 1, 2003, BG PET Resin exporters were eligible to earn credits equal to 17 percent of the free on board (FOB) value of their export shipments until February 9, 2004, when the DEPS rate changed to 13 percent.

The Department has previously determined that the DEPS is countervailable. In *Notice of Final Affirmative Countervailing Duty Determination: Polyethylene Terephthalate Film, Sheet, and Strip from India (PET Film from India)*, 67 FR 34905 (May 16, 2002), and accompanying *Issues and Decision Memorandum*), the Department determined that under the DEPS, a financial contribution, as defined under section 771(5)(D)(ii) of the Act, is provided because (1) the GOI provides credits for the future payment of import duties; and (2), the GOI does not have in place and does not apply a system that is reasonable and effective for the purposes intended to confirm which inputs, and in what amounts, are consumed in the production of the exported products. Therefore, under 19 CFR 351.519(a)(4) and section 771(5)(E) of the Act, the entire amount of import duty exemption earned during the POI constitutes a benefit. Finally, this program can only be used by exporters and, therefore, it is specific under section 771(5A)(B) of the Act. *See* the "DEPS" section of the *PET Film from India Issues and Decision Memorandum* on file in the CRU and available online at *http://www.ia.ita.doc.gov*. No new information or evidence of changed circumstances has been presented in this investigation to warrant reconsideration of this finding. Therefore, we continue to find that the DEPS is countervailable.

We have previously determined that this program provides a recurring benefit under19 CFR 351.524(c). *See Final Affirmative Countervailing Duty Determination: Certain Cut-to-Length Carbon-Quality Steel Plate From India, (Carbon Steel Plate From India)*, 64 FR 73131, 73140 (December 29, 1999). Benefits from the DEPS program are conferred as of the date of exportation of the shipment for which the pertinent DEPS credits are earned. *See* comment 4, "Timing and Calculation of DEPS Benefits", *Carbon Steel Plate From India*.

Reliance was the only company that reported that it received post-export credits on BG PET resin under the DEPS program during the POI. We calculated the DEPS program rate using the value of the post-export credits that Reliance earned for its export shipments of subject merchandise to the United States during the POI by multiplying the FOB value of each export shipment by the relevant percentage of DEPS credit allowed under the program for exports of subject merchandise. We then subtracted as an allowable offset the actual amount of application fees paid for each license in accordance with section 771(6) of the Act. Finally, we took this sum (the total value of the licenses net of application fees paid)

and divided it by Reliance's total exports of subject merchandise to the United States during the POI. On this basis, we preliminarily determine Reliance's net countervailable subsidy from the DEPS program to be 16.96 percent ad valorem.

2. Export Promotion Capital Goods Scheme (EPCGS)

The EPCGS provides for a reduction or exemption of customs duties and an exemption from excise taxes on imports of capital goods. Under this program, exporters may import capital equipment at reduced rates of duty by undertaking to earn convertible foreign exchange equal to four to five times the value of the capital goods within a period of eight years. For failure to meet the export obligation, a company is subject to payment of all or part of the duty reduction, depending on the extent of the export shortfall, plus penalty interest. In previous investigations, the Department has determined that producers/exporters benefit from the waiver of import duty on imports of capital equipment. Also, a second type of benefit conferred under this program that involves import duty reductions that producers/exporters receive on imports of capital equipment for which producers/exporters have not yet met their export requirements. For those capital equipment imports, producers/exporters have unpaid duties that will have to be paid to the GOI if the export requirements are not met.

When a company has an outstanding liability and the repayment of that liability is contingent upon subsequent events, our practice is to treat any balance on that unpaid liability as an interest-free loan. *See* 19 CFR 351.505(d)(1). *See also PET Film From India; Final Affirmative Countervailing Duty Determination: Certain Hot-Rolled Carbon Steel Flat Products From India (Hot-Rolled Steel from India)*, 66 FR 49635 (September 28, 2001), and accompanying *Issues and Decision Memorandum (Hot-Rolled Steel Decision Memo)*. The Department preliminarily determined that the EPCGS program is countervailable because (1) the receipt of benefits under this program is contingent upon export performance in accordance with section 771(5A)(B) of the Act; (2) the GOI provided a financial contribution under section 771(5)(D)(ii) of the Act in the two ways described above; and (3) the program provides benefits under section 771(5)(E) of the Act. *See PET Film From India.*

The criteria to be used by the Department in determining whether to allocate the benefits from a countervailable subsidy program are specified under 19 CFR 351.524. Specifically, recurring benefits are not allocated over time but are attributed to the year of receipt, while non-recurring benefits are normally allocated over time. Normally, tax benefits are considered to be recurring benefits and are expensed in the year of receipt. Since import duties are a type of tax, the benefit provided under this program is a tax benefit, and, thus, normally would be considered a recurring benefit.

However, the Department's regulations recognize that, under certain circumstances, it is more appropriate to allocate over time the benefits of a program normally considered a recurring subsidy, rather than to expense the benefits in the year of receipt. In the Preamble to our regulations, the Department provides an example of when it may be more appropriate to consider the benefits of a tax program to be non-recurring benefits, and, thus, allocate those benefits over time. *See Countervailing Duties; Final Rule*, 63 FR 65348, 65393 (November 25, 1998). We stated in the Preamble to our regulations that, if a government provides an import duty exemption tied to major capital equipment purchases, it may be reasonable to conclude that, because these duty exemptions are tied to capital assets, the benefits from such duty exemptions should be considered non-recurring, even though import duty exemptions are on the list of recurring subsidies.

Because the benefit received from the waiver of import duties under the EPCGS is tied to the capital assets of the respondent companies, and, therefore, is just such a benefit, we determine that it is appropriate to treat the waiver of duties as a non-recurring benefit. We note that our approach on this issue is consistent with that taken in *Hot-Rolled Steel from India*. Reliance is the only respondent that reported using the EPCGS program, and for the preliminary determination of this investigation, non-recurring benefits will be allocated over 10 years, the AUL for Reliance. (*See* "Subsidies Valuation Section" above).

In its questionnaire responses, Reliance reported the capital equipment imports they made using EPCGS licenses are granted pursuant to obligations to export BG PET Resin, as well as the application fees they paid to obtain their EPCGS licenses. We preliminarily determine that the application fees paid by Reliance qualify as an "application fee, deposit, or similar payment paid in order to qualify for, or to receive, the benefit of the countervailable subsidy." *See* section 771(6)(A) of the Act. In order to calculate the benefit received from the waiver of Reliance's import duties on their capital equipment imports, we determined the total amount of duties which were waived in each year (net of application fees), *i.e.*, those for which the GOI determined other export obligations had been met. Consistent with our approach in *Hot-Rolled Steel from India*, we determine the year of receipt to be the year in which the GOI formally waived the respondent company's remaining outstanding import duties.

A second type of financial contribution and benefit conferred under this program arises from the import duty reductions that the respondent received on the imports of capital equipment for which the respondent has not yet met its export requirements. For those capital equipment imports, the respondent has unpaid duties that will have to be paid to the GOI if the export requirements are not met. When a company has an outstanding liability and the repayment of that liability is contingent upon subsequent events, our practice is to treat any balance on that unpaid liability as an interest-free loan. *See* 19 CFR 351.505(d)(1). We determine that the amount of contingent liability to be treated as an interest-free loan is the amount of the import duty reduction or exemption for which the respondent applied but, as of the end of the POI, had not been finally waived by the GOI. Accordingly, we determine the benefit to be the interest that the respondent would have paid during the POI had the company borrowed the full amount of the duty reduction at the time of import. We note that this approach is consistent with the methodology employed in *Hot-Rolled Steel from India.*

For purposes of calculating the benefit from this element of EPCGS, we treated the outstanding duties as a long-term interest-free loan. Based on the information provided by Reliance with respect to this program, we determine that Reliance had outstanding contingent liabilities during the POI. Pursuant to19 CFR 351.505(d)(1), the benchmark for measuring the benefit is a long-term interest rate because the event upon which repayment of the duties depends (*i.e.*, the date of expiration of the time period for the respondents to fulfill their export commitments) occurs at a point in time more than one year after the date the capital goods were imported.

To calculate the countervailable subsidy rate for Reliance, we combined, where applicable, the sum of the benefits received on waived duties and

allocated to the POI, and the benefits conferred upon Reliance in the form of contingent-liability loans. We then subtracted as an allowable offset the actual amount of application fees paid for each license in accordance with section 771(6)(A) of the Act. Then, because the licenses were granted specifically for the export of BG PET resin, we divided Reliance's total benefit under the program by its total export sales of BG PET resin during the POI (*see* 19 CFR 351.525). On this basis, we preliminarily determine the net countervailable subsidy from this program to be 11.40 percent ad valorem for Reliance.

3. Export-Oriented Units

Companies designated as Export-Oriented United (EOUs) can receive various types of assistance including: (1) Duty-free import of capital goods and raw materials; (2) reimbursement of Central Sales Tax (CST) paid on materials procured domestically; (3) purchase of materials and other inputs free of Central Excise Duty; and (4) duty drawback on furnace oil procured from domestic oil companies. Elque, Futura, and SAPL have been designated as EOUs.

Since eligibility for the EOU program is contingent upon export performance, we find that the assistance provided under the EOU program is specific within the meaning of section 771(5A)(B) of the Act. We also preliminarily determine that the Duty-Free Import of Capital Goods and Raw Materials program, and the Reimbursement of Central Sales Tax (CST) Paid on Materials Procured Domestically program, provide a financial contribution pursuant to section 771(5)(D)(ii) of the Act through the foregoing of duty and tax payments. These two EOU programs confer benefits in the amounts of exemptions and reimbursements of customs duties and certain sales taxes in accordance with section 771(5)(E) of the Act. (*See* "Programs for Which Additional Information is Needed" below for a discussion of the Duty Drawback on Furnace Oil Procured from Domestic Oil Companies plan, and the Purchase of Materials and other Inputs free of Central Excise Duty plan.)

Elque, Futura, and SAPL are designated as EOUs, and they reported receiving benefits under the Duty-Free Import of Capital Goods and Raw Materials program, and the Reimbursement of Central Sales Tax (CST) Paid on Materials Procured Domestically program during the POI.

a. Duty-Free Import of Capital Goods and Raw Materials

Under this program, EOUs are entitled to import capital goods and raw materials duty-free. The GOI provided no information to demonstrate that exemptions on raw materials met the standards for non-countervailability pursuant to 19 CFR 351.519(a)(4). Normally, tax benefits are considered to be recurring benefits and are expensed in the year of receipt. Since import duties are a type of tax, the benefit provided under this program is a tax benefit, and, thus, normally would be considered a recurring benefit. Thus, we are treating the duty exemptions on raw materials as recurring benefits.

However, as discussed in the "EPCGS" section above, the Department's regulations recognize that, under certain circumstances, it is more appropriate to allocate over time the benefits of a program normally considered a recurring subsidy, rather than to attribute the benefits to the year of receipt. Because the benefit received from the exemption of import duties on capital goods under this program is granted for the capital goods of the respondent companies, we determine that it is appropriate to treat the exemption of duties on capital goods as a non-recurring benefit.

Therefore, to calculate the countervailable subsidy for Elque, SAPL, and Futura, we summed duty exemptions on raw material inputs received during the POI and the duty exemptions on capital goods allocated to the POI. We then divided each company's total benefits under the program by their total export sales during the POI. On this basis, we preliminarily determine the countervailable subsidy from this program to be 11.20 percent ad valorem for Elque, 18.59 percent ad valorem for SAPL, and 1.03 percent ad valorem for Futura.

b. Reimbursement of Central Sales Tax (CST) Paid on Materials Procured Domestically

Under this program, EOUs are entitled to reimbursements of the CST paid on materials procured domestically. This reimbursement is available on purchases of both raw materials and capital goods. For the reimbursement of CST paid on materials procured domestically, the record shows that EOUs record the CST reimbursement at the point of purchase and receipt of invoice from the domestic supplier. EOU companies then enter the claims in the books of accounts at the point of purchase and, simultaneously, deduct CST from the cost of domestic goods procured. To calculate the benefit for Elque, SAPL, and Futura, we summed the reimbursements of the CST paid on raw materials procured domestically that each company received during the POI. We separately summed the CST reimbursements paid on capital goods for each year and allocated these sums over each company's AUL using the appropriate discount rate. (*See* "Subsidies Valuation Information" section above.)

For CST reimbursements on capital goods received during the POI, we first conducted the "0.5 percent" test. *See* 19 CFR 351.524(b)(2). Based in the result of this test, we either allocated the total CST reimbursements received during the POI over each company's AUL using the appropriate discount rate (*see* "Subsidies Valuation Information" section above), or we attributed the total CST reimbursements received during the POI to POI, as appropriate. *See Id.*

We then summed the benefits on capital goods allocated to the POI with the benefits on raw materials attributed to the POI and divided the companies' total benefits under the program by their respective total export sales during the POI. (Futura provided no information indicating which CST reimbursements were received for raw materials purchases and which for capital goods purchases. Thus, for the purposes of the preliminary determination, we attributed all of Futura's CST reimbursements to the POI.) On this basis, we preliminarily determine the countervailable subsidy from this program to be 0.07 percent ad valorem for SAPL, 0.79 percent ad valorem for Elque, and 0.12 percent ad valorem for Futura.

4. Income Tax Exemption Scheme (Section 80 HHC) In Certain Iron-Metal Castings From India: Final Results of Countervailing Duty

Administrative Review (Iron-Metal Castings from India), 65 FR 31515 (May 18, 2000), the Department determined that deductions of profit derived from exports under section 80HHC of India's Income Tax Act are countervailable. No new information or evidence of changed circumstances has been submitted in this investigation to warrant reconsideration of this finding. Therefore, we continue to find this program countervailable because it is contingent upon export performance and, therefore, is specific in accordance with section 771(5A)(B) of the Act. Pursuant to section 771(5)(D)(ii) of the Act, the GOI provides a financial contribution in the form of tax revenue not collected. Finally, a benefit is

conferred in the amount of tax savings in accordance with section 771(5)(E) of the Act.

Reliance claimed deductions of profits derived from exported goods, under section 80HHC, in computing its total taxable income during the POI. To calculate the benefit Reliance received under this program, we subtracted the total amount of income tax the company actually paid during the POI from the amount of tax the company otherwise would have paid had it not claimed a deduction under section 80 HHC. Since the Department has previously found section 80 HHC to be an "untied" export subsidy program, *i.e.*, the benefits provided are attributable to all products exported by the company. *See Certain Iron-Metal Castings From India: Final Results of Countervailing Duty Administrative Review*, 65 FR 31515 (May 18, 2000); *see also e.g., Final Affirmative Countervailing Duty Determination: Certain Pasta from Turkey*, 61 FR 30366, 30370 (June 14, 1996).

To calculate the benefit Reliance received under section 80HHC, we subtracted the total amount of income tax the company actually paid during the POI from the amount of tax the company otherwise would have paid had it not claimed a deduction under section 80HHC. We then divided this difference by total export sales. Thus, the countervailable subsidy is 0.64 percent ad valorem for Reliance.

Elque reported that all of its exports of subject merchandise to the United States during the POI were made through a trading company, and further reported that the trading company claimed Section 80 HHC deductions. In accordance with 19 CFR 351.525(c), we have attributed the trading company's export subsidy benefits from Section 80 HHC to Elque.

To calculate the benefit Elque's trading company received under section 80HHC, we subtracted the total amount of income tax actually paid during the POI from the amount of tax that otherwise would have been paid had a deduction under section 80HHC not been claimed. We then divided this difference by Elque's total export sales. Thus, the countervailable subsidy is 0.02 percent ad valorem for Elque.

5. Pre- and Post-Shipment Export Financing

The Reserve Bank of India (RBI), through commercial banks, provides short-term pre-shipment export financing, or "packing credits," to exporters. Upon presentation of a confirmed export order or letter of credit to a bank, companies may receive pre-shipment loans for working capital purposes. Exporters may also establish pre-shipment credit lines upon which they may draw as needed. Credit line limits are established by commercial banks based upon a company's creditworthiness and past export performance, and may be denominated either in Indian rupees or in foreign currency. Commercial banks extending export credit to Indian companies must, by law, charge interest on this credit at rates capped by the RBI. For post-shipment export financing, exporters are eligible to receive post-shipment short-term credit in the form of discounted trade bills or advances by commercial banks at preferential interest rates to finance the period between the date of shipment of exported merchandise and payment from export customers ("transit period").

The Department has previously determined that this export financing is countervailable to the extent that the interest rates are set by the GOI and are lower than the rates exporters would have paid on comparable commercial loans. *See Notice of Final Affirmative Countervailing Duty Determination: Polyethylene Terephthalate Film, Sheet, and Strip from India (PET Film from India)*, 67 FR 34905 (May 16, 2002). Specifically, the Department determined that the GOI's issuance of financing at preferential rates constituted a financial contribution pursuant to section 771(5)(D)(i) of the Act. *See* the "Pre-Shipment and Post-Shipment Export Financing" section of the *PET Film from India Issues and Decision Memorandum*. The Department further determined that the interest savings under this program conferred a benefit pursuant to section 771(5)(E)(ii) of the Act. In addition, the Department determined this program, which is contingent upon exports, to be specific within the meaning of section 771(5A)(B) of the Act. No new information or evidence of changed circumstances have been presented in this investigation to warrant reconsideration of this finding.

SAPL reported that it had outstanding pre- and post-shipment export loans during the POI. Both SAPL's pre-shipment and post-shipment loans were denominated in rupees and U.S. dollars. Futura also reported that it had outstanding pre-shipment export loans during the POI, denominated in rupees. Reliance and Elque reported that they had no outstanding loans under these programs during the POI.

To calculate the benefit conferred by the pre-shipment and post-shipment loans taken out by SAPL and the pre-shipment loans taken out by Futura, we compared the actual interest paid on the loans with the amount of interest that would have been paid at the benchmark interest rate. We used a rupee-denominated or dollar-denominated benchmark, as appropriate (*see* "Subsidies Valuation Information" section above). Where the benchmark interest exceeds the actual interest paid, the difference constitutes the benefit. For pre-shipment loans, we divided the total benefit by the company's total exports. However, for Futura, we used its total exports of BG PET resin during the POI since its pre-shipment financing was limited to the BG Resin division. Post-shipment loans are granted for particular shipments, and thus, are tied to particular markets in accordance with 19 CFR 351.525(b)(2). Therefore, we divided the total benefit from post-export loans by SAPL's exports of subject merchandise to the United States.

We preliminarily determine the countervailable subsidy rate under the pre-shipment export financing program for SAPL to be 0.44 percent ad valorem during the POI, and for Futura to be 0.48 percent ad valorem during the POI. The countervailable subsidy rate under the post-shipment export financing program for SAPL is 0.01 percent ad valorem during the POI.

B. State of Maharashtra (SOM) Programs: Maharashtra Industrial Policy 2001 and Scheme of Incentives 1983

The State of Maharashtra (SOM) grants a package scheme of incentives for privately-owned (*i.e.*, not 100 percent owned by the GOI) manufacturers to invest in certain areas of Maharashtra. One of these incentives consists of either an exemption or deferral of state sales taxes. Through this incentive, companies are exempted from paying state sales taxes on purchases, and collecting sales taxes on sales; or, as an alternative, are allowed to defer submitting sales taxes collected on sales to the SOM for ten to twelve years. After the deferral period expires, the companies are required to submit the deferred sales taxes to the SOM in equal installments over five to six years. The total amount of the sales tax incentive either exempted or deferred is based on the size of the capital investment, and the area in which the capital is invested.

In *PET Film from India*, the Department determined that the program is specific within the meaning of section 771(5A)(D)(iv) of the Act because the benefits are limited to industries located within designated geographical areas within the SOM. The Department also determined that the

SOM program provided a financial contribution under section 771(5)(D)(i) of the Act in the form of uncollected interest on the deferred sales tax, and that the program conferred benefits under section 771(5)(E) of the Act in the amount of interest otherwise due. *See* the "Sales Tax Incentives" section of the *PET Film from India Decision Memo.*

The Department initiated on the Maharashtra Industrial Policy 2001. *See* "Countervailing Duty Investigation Initiation Checklist," April 13, 2004, on file in the CRU. The GOI reported that no sales tax exemptions or deferrals were provided under the Package Scheme of Incentives 2001. However, Reliance reported that it received sales tax exemptions and deferrals under the SOM's Scheme of Incentives 1983, with portions of the sales tax deferrals still outstanding during the POI. Because Reliance has reported incentives received under a prior SOM scheme that were still outstanding during the POI, the Department has determined that it is appropriate to analyze incentives received by Reliance during the POI to determine whether they are countervailable subsidies. *See* Memorandum from Dana Mermelstein to Barbara E. Tillman entitled "Countervailing Duty Investigation of Bottle-Grade Polyethylene Terephthalate (PET) Resin from India: Initiation of Investigation of Maharashtra Sales Tax Incentive Scheme 1983" on file in the CRU.

First, although the Department initiated on a different scheme for the SOM, Reliance has reported the incentives it received under the SOM's Scheme of Incentives 1983, both in the form of deferrals on sales taxes which were outstanding during the POI, and in the form of exemptions of sales taxes granted during the POI. The Department finds the sales tax incentives and deferrals specific in accordance with section 771(5A)(D)(iv) of the Act because, the 1983 Scheme limited the benefits to industries located within designated geographical areas within the SOM.

Second, for the sales taxes exempted, a benefit exists to the extent that the taxes paid by Reliance as a result of this program are less than the taxes it would have paid in the absence of the program. *See* 19 CFR 351.510(a)(1). Therefore, we preliminarily determine that a benefit and financial contribution were conferred by the exemption of sales taxes on purchases.

Finally, for the sales taxes deferred, the Department treats such deferred taxes as a government-provided loan in the amount of the taxes deferred because the SOM charges no interest during the deferral period. A benefit thus exists to the extent that the appropriate interest charges are not collected. *See* 19 CFR 351.510(a)(2). We therefore preliminarily determine that a benefit was conferred in the amount of the interest that Reliance would have paid during the POI had it borrowed, at the time the collected sales taxes were deferred, the amount of the deferred sales taxes still unpaid at the end of the POI. Pursuant to 19 CFR 351.505(a)(2)(iii), to determine the amount of the benefit conferred, we used a long-term benchmark interest rate (*see* "Benchmark Interest and Discount Rates section above") during the years in which sales tax deferrals were received.

To calculate the program rate, we first summed Reliance's benefits received on exempted sales taxes on purchases during the POI. For deferred sales taxes which were still outstanding during the POI, we calculated the benefits conferred in the form of unpaid interest on the deferred sales taxes. We then divided Reliance's total benefit under the program by its total sales during the POI. On this basis, we preliminarily determine the countervailable subsidy from this program to be 0.12 percent ad valorem for Reliance.

C. State of Gujarat (SOG) Program: Sales Tax Incentive Scheme

Under the 1995 Industrial Policy of Gujarat, companies located in specific areas of Gujarat are exempted from payment of sales tax on the purchase of raw materials, consumable stores, packing materials, and processing materials. Other available benefits include exemption or deferment from sales tax and turnover tax on the sale of intermediate products, by-products, and scrap. After the deferral period expires, the companies are required to submit the deferred sales taxes to the SOG in equal installments over six years.

The Department preliminarily determines that this program is specific within the meaning of section 771(5A)(D)(iv) of the Act because the benefits are limited to industries located within designated geographical areas within the SOG. We also preliminarily find that the SOG provided a financial contribution under section 771(5)(D)(ii) of the Act by foregoing the collection of sales tax revenue, and that the Indian companies benefitted under section 771(5)(E) of the Act, in the amount of sales tax exempted or in the amount of interest foregone on sales taxes deferred on purchases noted above.

Reliance is the only company which received benefits from this program during the POI. Reliance reported that it received sales tax exemptions on qualifying purchases made within the SOG during the POI. In addition, Reliance received tax deferrals in earlier years which were still outstanding during the POI.

To calculate the program rate, we first summed Reliance's benefits received on exempted sales taxes on purchases during the POI. For deferred sales taxes which were still outstanding during the POI, we treated the amount of sales taxes deferred as an interest-free loan received in the year in which the deferral was granted, and we calculated the benefits conferred in the form of unpaid interest on the deferred sales taxes. (*See* "State of Maharashtra Programs" above). We then divided Reliance's total benefit under the program by its total sales during the POI. On this basis, we preliminarily determine the countervailable subsidy from this program to be 1.12 percent ad valorem for Reliance.

D. State of West Bengal Programs (SWB)

The Department initiated on the New Economic Policy on Industrial Development, a SWB scheme begun in the year 2000. *See* "Countervailing Duty Investigation Initiation Checklist". The GOI reported that no BG PET resin company benefitted from this program during the POI. However, the GOI reported that Elque received benefits under the West Bengal Scheme of 1993 (Scheme 1993), and SAPL received benefits under the West Bengal Scheme of 1999 (Scheme 1999). Although the Department initiated on a more recent scheme for the SWB, respondent companies have reported incentives received under the SWB schemes of 1993 and 1999 during the POI. Therefore, the Department has determined that it is appropriate to analyze incentives received by BG PET resin companies during the POI to determine whether they are countervailable subsidies. *See* Memorandum from Dana Mermelstein to Barbara E. Tillman entitled "Countervailing Duty Investigation of Bottle-Grade Polyethylene Terephthalate (PET) Resin from India: Initiation of Investigations of State of West Bengal Scheme of 1993 and 1999" on file in the CRU.

Scheme 1993 was introduced on April 1, 1993. Though the program was terminated effective March 31, 1999, assistance is still being provided under the Scheme. The objective of Scheme 1993 was to assist in the growth of medium- and large-scale industries, the tourism industry, the expansion of existing units, and revival of sick units in the SWB through the provision of

incentives. Industrial projects which receive an industrial license, registration certificate, and term loans from a financial institution are eligible to receive benefits under Scheme 1993. The program offers various incentives and tax concessions to entrepreneurs and industrial units to assist them in the construction of new units or expansion of existing units, and the building of infrastructure in the backward areas of West Bengal. The amount of financial assistance an industrial unit is eligible to receive is determined by its location in West Bengal. Under the scheme, West Bengal is divided into four groups: Group A (*i.e.*, Calcutta) is classified as developed, while Groups B through D are categorized as less developed, with Group D deemed the most backward. Industrial units located in the more backward areas receive greater monetary assistance than those units located in the more developed areas.

See e.g., Certain Iron-Metal Castings From India: Preliminary Results and Partial Rescission of Countervailing Duty Administrative Review, 64 FR 61592 (November 12, 1999). Under Scheme 1993, Elque qualified for assistance because one of its manufacturing facilities is located in Group B, and received a grant in multiple disbursements under the State Capital Investment Subsidy program, which was made available under the Scheme 1993 to eligible units in any area in Group B.

Scheme 1999, an amended version of Scheme 1993, has not been previously examined by the Department. Under Scheme 1999, the number of geographical groups was reduced from four to three. Companies located in Group A (called the "Calcutta Municipal Corporation"), classified as a developed area, receive few, if any, incentives; according to Scheme 1999, "no subsidy, loan, deferment or remission of tax or incentive will be granted to any unit set up in the area under Group A except to the extent provided for in the Scheme, such as deferments of payments of sales taxes for preferred industries" (*i.e.*, expansion of information technology units, tourist units). Companies located in Group B can receive assistance in the form of sales tax exemptions on purchases of raw materials, capital grant disbursements, and a subsidy for conversion of piped coal gas. Group C is comprised of the most underdeveloped areas in West Bengal, and companies located there are entitled to more incentives under Scheme 1999 than those located in Groups A and B. Group C receives the same types of incentives as Group B, but at a higher level. For example, for the Exemption of Sales Tax on Purchase of Raw Materials program, companies located in Group C can receive deferrals on payments for substantially longer periods than those in Group B. SAPL is located in Group B, and received an exemption of sales tax on purchases under Scheme 1999, which provided benefits to the company during the POI.

We find that the assistance granted to Elque under Scheme 1993 and the assistance granted to SAPL under Scheme 1999 are specific within the meaning of section 771(5A)(D)(iv) of the Act, because the benefits are limited to companies located in specific regions within SWB. The capital grant which Elque received is a financial contribution in accordance with 771(5)(D)(i) of the Act. The sales tax exemption which SAPL received is revenue foregone, and therefore a financial contribution in accordance with 771(5)(D)(ii) of the Act. Both forms of assistance provide benefits in accordance with 771(5)(E) of the Act.

To calculate the countervailable subsidy for Elque, because the capital grant is a non-recurring subsidy (*see* 19 CFR 351.504), we allocated each of the grant disbursements over Elque's AUL. We used a discount rate from 1995, the year in which Elque was approved for the total capital grant. *See* "Subsidies Valuation Information" section above. We summed the benefits allocable to the POI, and divided that sum by Elque's total sales during the POI. To calculate the countervailable subsidy for SAPL, we divided the total sales tax exemptions received by SAPL during the POI by SAPL's total sales. We thus preliminarily determine the countervailable subsidy to be 0.02 percent ad valorem for Elque and 0.02 percent ad valorem for SAPL.

II. Programs Preliminarily Determined To Be Not Used

We preliminarily determine that the producers/exporters of BG PET Resin did not apply for or receive benefits during the POI under the programs listed below.

GOI Programs:

A. Status Certificate Program
B. Market Development Assistance Program
C. Income Tax Exemption Scheme (Sections 10A and 10B)
D. Loan Guarantees from the GOI
E. Special Economic Zones (formerly called "Export Processing Zones")

For purposes of this preliminary determination, we have relied on the GOI and respondent companies' responses to preliminarily determine non-use of the programs listed above. During the course of verification, the Department will examine whether these programs were not used by respondent companies during the POI.

III. Program Preliminarily Determined To Be Terminated

GOI Program: Exemption of Export Credit From Interest Taxes

Indian commercial banks were required to pay a tax on all interest accrued from borrowers. The banks passed along this interest tax to borrowers in its entirety. As of April 1, 1993, the GOI exempted from the interest tax all interest accruing to a commercial bank on export-related loans. The Department has previously found this tax exemption to be an export subsidy, and thus countervailable, because only interest accruing on loans and advances made to exporters in the form of export credit was exempt from interest tax. *See e.g., Final Results of Countervailing Duty Administrative Review: Certain Iron-Metal Castings from India*, 61 FR 64676, 64686 (December 6, 1996).

The GOI reported that the tax on interest on any category of loan was eliminated prior to the POI. Specifically, the GOI submitted Section 4(3) of the Interest Tax Act which provides that "no interest tax shall be charged in respect of any chargeable interest accruing or arising after the 31st day of March, 2000." *See* Appendix 8 of the GOI's June 21, 2004, questionnaire response. In addition, the information reported by the responding companies indicates that they are no longer required to pay tax on any interest on any loans. Therefore, in accordance with 19 CFR 351.526(d), we preliminarily determine that this program has been terminated. If, however, we are unable to establish at verification that there are no residual benefits accruing to exporters of BG PET Resin from India from this program, and that the GOI has not implemented a replacement program, we will not find, for purposes of the final determination that this program has been terminated in accordance with 19 CFR 351.526(d).

IV. Programs for Which Additional Information Is Needed

GOI Programs

A. Certain Assistance Under the Export Oriented Unit (EOU) Program

1. Purchase of Materials and Other Inputs Free of Central Excise Duty

Under this element of the EOU program, eligible companies can purchase raw materials and other inputs

free of the central excise duty. As an element of the EOU program, the Central Excise Duty (CED) exemption is limited to exporters, and therefore specific under section 771(5A)(B) of the Act. However, based on the information in the record of this investigation, we are unable to determine whether the Purchase of Materials and other Inputs of Central Excise Duty provides a financial contribution in accordance with section 771(5)(D)(ii) of the Act, or a benefit in accordance with section 771(5)(E)(iv) of the Act. Therefore, for purposes of this preliminary determination, additional information is needed before making a decision with respect to this program. We will seek additional information from the GOI prior to our verification and final determination.

2. Duty Drawback on Furnace Oil Procured From Domestic Oil Companies

Under this element of the EOU program, an EOU procuring oil from domestic oil companies can file a drawback claim on a quarterly basis. As an element of the EOU program, this duty drawback program is limited to exporters and therefore specific under section 771(5A)(B) of the Act. However, based on the information in the record of this investigation, we are unable to determine whether the duty drawback of domestic furnace oil purchases provides a financial contribution in accordance with section 771(5)(D)(ii) of the Act, or a benefit in accordance with section 771(5)(E)(iv) of the Act. Therefore, for purposes of this preliminary determination, additional information is needed before making a decision with respect to this program. We will seek additional information from the GOI prior to our verification and final determination.

Verification

In accordance with section 782(i) of the Act, we will verify the information submitted prior to making our final determination.

Suspension of Liquidation

In accordance with section 703(d)(1)(A)(i) of the Act, we have determined individual rates for Reliance, SAPL, Futura, and Elque. To calculate the "all others" rate, we weight-averaged the individual rates of Reliance, SAPL, Futura, and Elque's by each company's respective exports of subject merchandise made to the United States during the POI. These rates are summarized in the table below:

Producer/exporter	Subsidy rate
Reliance Industries Ltd.	30.24 % ad valorem
South Asia Petrochem Ltd.	19.13 % ad valorem
Futura Polyesters Ltd	1.62 % ad valorem
Elque Polyesters Ltd	12.02 % ad valorem
All Others	24.01 % ad valorem

In accordance with section 703(d)(1)(B) of the Act, we are directing U.S. Customs and Border Protection (CBP) to suspend liquidation of all entries of the subject merchandise from India, which are entered or withdrawn from warehouse, for consumption on or after the date of the publication of this notice in the **Federal Register**, and to require a cash deposit or the posting of a bond for such entries of the merchandise in the amounts indicated above. This suspension will remain in effect until further notice.

As provided for in the section 703(b)(4)(B) of the Act, for developing countries, any rate less than 2.0 percent ad valorem in an investigation is de minimis. Therefore, we preliminarily determine that countervailable subsidies are not being provided to Futura. Accordingly, for Futura, we will not direct CBP to suspend liquidation of entries of subject merchandise.

ITC Notification

In accordance with section 703(f) of the Act, we will notify the ITC of our determination. In addition, we are making available to the ITC all non-privileged and non-proprietary information relating to this investigation. We will allow the ITC access to all privileged and business proprietary information in our files, provided the ITC confirms that it will not disclose such information, either publicly or under an administrative protective order, without the written consent of the Assistant Secretary for Import Administration.

In accordance with section 705(b)(2) of the Act, if our final determination is affirmative, the ITC will make its final determination within 45 days after the Department makes its final determination.

Notification of Parties

In accordance with 19 CFR 351.224(b), the Department will disclose to the parties the calculations for this preliminary determination within five days of its announcement. Unless otherwise notified by the Department, interested parties may submit case briefs within 50 days of the date of publication of the preliminary determination in accordance with 19 CFR 351.309(c)(i) of the Department's regulations. As part of the case brief, parties are encouraged to provide a summary of the arguments not to exceed five pages and a table of statutes, regulations, and cases cited. Rebuttal briefs, which must be limited to issues raised in the case briefs, must be filed within five days after the case brief is filed.

In accordance with 19 CFR 351.310, we will hold a public hearing if requested, to afford interested parties an opportunity to comment on this preliminary determination. Individuals who wish to request a hearing must submit a written request within 30 days of the publication of this notice in the **Federal Register** to the Assistant Secretary for Import Administration, U.S. Department of Commerce, Room 1870, 14th Street and Constitution Avenue, NW., Washington, DC 20230. Parties will be notified of the schedule for the hearing and parties should confirm by telephone the time, date, and place of the hearing 48 hours before the scheduled time. Requests for a public hearing should contain: (1) Party's name, address, and telephone number; (2) the number of participants; and, (3) to the extent practicable, an identification of the arguments to be raised at the hearing.

This determination is issued and published pursuant to sections 703(f) and 777(i) of the Act.

Dated: August 23, 2004.

James J. Jochum,

Assistant Secretary for Import Administration.

[FR Doc. E4–1975 Filed 8–27–04; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 082304D]

Gulf of Mexico Fishery Management Council; Public Meetings

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

ACTION: Notice of public meeting.

SUMMARY: The Gulf of Mexico Fishery Management Council will convene public meetings.

DATES: The meetings will be held on September 13–17, 2004.

ADDRESSES: These meetings will be held at the Edgewater Beach Resort, 11212 Front Beach Road, Panama City, FL 34207.

Council address: Gulf of Mexico Fishery Management Council, 3018

North U.S. Highway 301, Suite 1000, Tampa, FL 33619; 850–235–4977.

FOR FURTHER INFORMATION CONTACT: Wayne E. Swingle, Executive Director, Gulf of Mexico Fishery Management Council; telephone: (813) 228–2815.

SUPPLEMENTARY INFORMATION:

Council

Thursday September 16, 2004

8:30 a.m. - Convene.

8:45 a.m. - 10 a.m. - Receive public testimony on the Reef Fish Amendment 23 (Vermilion Snapper Rebuilding Plan) and Applications for Exempted Fishing Permits (if any).

10 a.m. - 10:30 a.m. - Receive the Habitat Protection Committee report.

10:30 a.m. - 10:45 a.m. - Receive the report of the Joint Personnel/ Administrative Policy Committee.

10:45 a.m. - 11 a.m. - Receive the report of the Budget Committee.

11 a.m. - 11:15 a.m. - Receive the Joint Reef Fish/Mackerel Management Committee report.

11:15 a.m. - 11:30 a.m. - Receive the Shrimp Management Committee report.

1 p.m. - 1:15 p.m. - Receive the Data Collection Committee report.

1:15 p.m. - 1:30 p.m. - Receive the Ecosystem Management Committee report.

1:30 p.m. - 3:30 p.m. - Receive the Reef Fish Management Committee report.

3:30 p.m. - 5 p.m. - Receive the Migratory Species Committee report.

September 17, 2004

8:30 a.m. - 9:30 a.m. - Receive the Sustainable Fisheries Committee report.

9:30 a.m. - 10:30 a.m. - Receive the Coral Management Committee report.

10:30 a.m. - 10:45 a.m. - Receive the Joint Advisory Panel (AP) Selection/ Scientific and Statistical Committee (SSC) Selection Committee report.

10:45 a.m. - 11 a.m. - Receive the International Commission for the Conservation of Atlantic Tunas (ICCAT) Advisory Committee report.

11 a.m. - 11:15 a.m. - Receive Enforcement Reports.

11:15 a.m. - 11:30 a.m. - Receive the NMFS Regional Administrator's Report.

11:30 a.m. - 11:45 a.m. - Receive Director's Reports.

11:45 a.m. - 12 noon - Other Business

12 noon - 12:15 p.m. - Election of Chair and Vice-Chair.

September 13, 2004

8:30 a.m. - 9:30 a.m. - The Joint Personnel/Administrative Policy Committees will review the disciplinary action section of the Council's Standard Operating Practices and Procedures (SOPPS) and the Southeastern Data and Review (SEDAR) Process and Pool Section of SOPPs.

9:30 a.m. - 10:30 a.m. - The Budget Committee will review the 2005–09 budgets.

10:30 a.m. - 11:30 a.m. - The Joint Reef Fish/Mackerel Management Committee will review amendments for commercial limited access systems for reef fish and mackerels.

1 p.m. - 3:30 p.m. - The Shrimp Management Committee will discuss NOAA Fisheries' bycatch reduction device (BRD) technical developments; proposed revision of BRD certification rule; report on Shrimp Summit meeting; and Draft Shrimp Amendment 13/SEIS.

3:30 p.m. - 5:30 p.m. - The Ecosystem Management Committee will meet and presentations on the NOAA Fisheries' ecosystem management will be given. There will also be a presentation on the South Atlantic Fishery Management Council (SAFMC) approach to ecosystem management.

September 14, 2004

8 a.m - 9:30 a.m. - The Data Collection Committee will meet to hear a presentation of the recreational data needs and data collection.

9:30 a.m. - 11 a.m. - The Habitat Protection Committee will review a Preliminary Public Hearing Draft of Generic Essential Fish Habitat (EFH) Amendment and a report on NOAA Fisheries' Liquid Natural Gas (LNG) Facilities Workshop.

11 a.m. - 5:30 p.m. - The Reef Fish Management Committee will meet to review the Final Reef Fish Amendment 23 for rebuilding vermilion snapper; an Options Paper for Reef Fish 18A pertaining to the grouper fishery; scoping comments on Red Snapper Individual Fishing Quota (IFQ) Profile; and public testimony on grouper quota and trip limits.

6:30 p.m - 8:30 p.m. - NOAA Fisheries' Southeast Regional Office (SERO) will hold the Gulf Coast Recreational Data Forum in the same meeting room as the Council meeting. Dr. Roy Crabtree, SE Regional Administrator, SERO staff, and fisheries statistics staff from NOAA Fisheries Headquarters will be on hand to provide up-to-date program information and answer questions about NOAA Fisheries' recreational data collection program. The informal two-hour session is open to the public and will begin at 6:30 p.m. For more information on the Gulf Coast Recreational Data Forum, contact Michael Bailey at 727–570–5474.

September 15, 2004

8:30 a.m. - 10:30 a.m. - The Highly Migratory Species Committee will meet to suggest changes to the NOAA Fisheries HMS/Billfish Amendments.

10:30 a.m. - 1 p.m. - The Sustainable Fisheries Committee will suggest changes to the draft proposed guidelines for National Standard One.

2:30 - 4:30 p.m. - The Coral Management Committee will meet from to review the Oceana petition for rulemaking on deep-water coral and draft a Council letter commenting on it

4:30 - 5:30 p.m. - The Joint Advisory Panel (AP)/Scientific and Statistical Committee (SSC) selection Committee will meet in a closed session to discuss the appointment of 2 persons to the Ad Hoc Red Snapper AP and appointment of members to the Ad Hoc Ecosystem SSC.

Although other non-emergency issues not on the agendas may come before the Council and Committees for discussion, in accordance with the Magnuson-Stevens Fishery Conservation and Management Act, those issues may not be the subject of formal action during these meetings. Actions of the Council and Committees will be restricted to those issues specifically identified in the agendas and any issues arising after publication of this notice that require emergency action under Section 305(c) of the Magnuson-Stevens Act, provided the public has been notified of the Council's intent to take action to address the emergency. The established times for addressing items on the agenda may be adjusted as necessary to accommodate the untimely completion of discussion relevant to other agenda items. In order to further allow for such adjustments and completion of all items on the agenda, the meeting may be extended from, or completed prior to the date established in this notice.

Special Accommodations

These meetings are physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Dawn Aring at the Council (see **ADDRESSES**) by September 2, 2004.

Dated: August 25, 2004.

Alan D. Risenhoover,

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

[FR Doc. E4–1962 Filed 8–27–04; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration (NOAA)

Marine Protected Areas Federal Advisory Committee; Public Meeting

AGENCY: National Ocean Service, NOAA, Department of Commerce.

ACTION: Notice of open meeting.

SUMMARY: Notice is hereby given of the fourth meeting of the Marine Protected Areas Federal Advisory Committee (MPAFAC) in Maui, Hawaii.

DATES: The meeting will be held Tuesday, September 21, from 8 a.m. to 5 p.m., Wednesday, September 22, from 8 a.m. to 5 p.m., and Thursday, September 23, from 8 a.m. to 5 p.m. These times and the agenda topics described below may be subject to change. Refer to the web page listed below for the most up-to-date meeting agenda.

ADDRESSES: The meeting will be held at the Renaissance Wailea, 3550 Wailea Alanui Drive, Wailea, Hawaii 96753.

FOR FURTHER INFORMATION CONTACT: Lauren Wenzel, Designated Federal Officer, MPAFAC, National Marine Protected Areas Center, 1305 East-West Highway, Silver Spring, Maryland 20910. (Phone: 301–713–3100 x136, Fax: 301–713–3110); e-mail: *lauren.wenzel@noaa.gov*; or visit the national MPA Center Web site at *https://www.mpa.gov*).

SUPPLEMENTARY INFORMATION: The MPAFAC, composed of external, knowledgeable representatives of stakeholder groups, has been established by the Department of Commerce to provide advice to the Secretaries of Commerce and Interior on implementation of section 4 of Executive Order 13158 on MPAs. The meeting will be open to public participation, with a one hour time period set aside from 4 p.m. to 5 p.m. on Tuesday, September 21, 2004, and one hour set aside from 8:10 a.m. to 9:10 a.m. on Thursday, September 23, 2004 for the Committee to receive verbal comments or questions from the public. In general, each individual or group making a verbal presentation will be limited to a total time of five (5) minutes. Copies of written statements should be submitted to the Designated Federal Official by Friday, September 17, 2004.

Matters To Be Considered: On Tuesday, September 21, the three Subcommittees that have been established will meet: (1) National System of MPAs; (2) Stewardship and Effectiveness of MPAs; and (3) National and Regional Coordination of MPA Efforts. The Subcommittees will report on their work to the full Committee and then resume their work. On Tuesday afternoon, the Committee will hear from speakers on cultural aspects of marine management and then will receive comments from the public.

On Wednesday, September 22, the Subcommittees will meet, and the Committee will receive provisional reports from the Subcommittees. In the afternoon, the Committee members will hear from representatives of four Regional Fishery Management Councils.

On Thursday, September 23, the Committee will receive comments from the public. The Subcommittees will then meet. The full Committee will meet to further consider Subcommittee reports and to discuss the timing and agenda for the next meeting. They will then hear speakers on Pacific Island marine protected area management.

On Friday, September 24, the Committee will visit Hulapoe Marine Reserve on the island of Lana'i.

Dated: August 17, 2004.

Eldon Hout,

Director, Office of Ocean and Coastal Resource Management.

DRAFT Agenda—Marine Protected Areas Federal Advisory Committee, Renaissance Wailea, 3550 Wailea Drive, Maui, Hawaii, September 21–24, 2004

Tuesday, September 21

7:30 Sign-In by All Participants
8 Call to Order
8:05 Committee Business
- Approval of Minutes of April 2004 meeting
- Review of Agenda
- MPA Center Update

9 Subcommittees Meet
1. Developing a National System of MPAs
2. Stewardship and MPA Effectiveness
3. National and Regional Coordination of MPA Efforts

10 Full Committee Receives Provisional Reports by Subcommittees
12 Working Lunch—in Subcommittees
1 Subcommittees Meet
2:30 Panel Presentation—Culture and the Sea, Moderator: Bonnie McCay
- Craig Severance, University of Hawaii, Anthropology Dept.
- William Aila
- Edward Glazier, Director of Research, Impact Assessment, Inc.

3:50 BREAK
4 Public Comment Period
5 Adjourn for the Day
6 Committee Dinner

Wednesday, September 22

7:30 Sign In By All Participants
8 Call to Order
8:05 Subcommittees Meet
10 Break
10:15 Subcommittees Meet
12:30 Lunch
1:30 Full Committee Receives Provisional Reports from Subcommittees
3:15 Break
3:30 Panel Presentation—Fishery Management Councils, Moderator: (TBD)
- Roy Morioka, Chair, Western Pacific FMC
- Stephanie Madsen, Chair, North Pacific FMC
- Dan Waldeck, Staff, Pacific FMC
- Eugenio Pineiro-Soler, Chair, Caribbean FMC

5 Adjourn for the Day

Thursday, September 23

7:30 Sign In by All Participants
8 Call to Order
8:10 Public Comment Period
9:10 Subcommittees Meet
12 Lunch
1 Full Committee Receives Subcommittee Reports
2:30 Committee Business
- Follow up for next meeting
- Logistics for next meeting
- Other items

3 Break
3:10 Panel Presentation—Pacific Island MPA Management, Moderator: Terry O'Halloran
- Incorporating Tenants of Traditional Marine Resource Management
  - Apelu Aitaoto, American Samoa
  - Delegate Noah Idechong, Palau
- User Group Perspectives—Jim Coon, Trilogy Excursions
- Inter-jurisdictional Coordination—Jim Maragos, US Fish and Wildlife Service

5 Adjourn
5:30 Reception with Members of the Hawaii Humpback Whale National Marine Sanctuary Advisory Committee and FAC Guests

Friday, September 24

10–6:30 Field visit to Hulapoe Marine Reserve on the island of Lana'i.

[FR Doc. 04–19694 Filed 8–27–04; 8:45 am]

BILLING CODE 3510–08–P

COMMISSION ON REVIEW OF OVERSEAS MILITARY FACILITY STRUCTURE OF THE UNITED STATES

Public Meeting

AGENCIES: Commission on Review of Overseas Military Facility Structure of the United States (Overseas Basing Commission).

ACTION: Notice of public meeting.

SUMMARY: In accordance with the Federal Advisory Committee Act, section 552 of title 5 U.S.C., this serves as public notice of a meeting of the Commission on the Review of Overseas Military Facility Structure of the United States. The Commission will meet to receive testimony from military experts and members of Congress concerning matters relating to the overseas military facility structure of the United States.

DATES: September 2, 2004, at 9:30 a.m., local time.

ADDRESSES: The meeting will be held at the United States Senate, Dirksen Senate Office Building, Room 138, 1st and C Streets, NE, Washington, DC. Security procedures at the Dirksen Senate Office Building may require inspection of purses, packages, screening of individuals, and presentation of a valid individual identification document. The building is physically accessible to people with disabilities.

FOR FURTHER INFORMATION CONTACT: Mr. Wade Nelson, Public Affairs, at (708) 204–0711.

Public Participation: Members of the general public wishing to inform the Commission may submit their comments in writing to the Commission at the time of the meeting.

SUPPLEMENTARY INFORMATION: The Commission is established by Public Law 108–132 to provide Congress and the President with a thorough study and review of matters relating to the military facility structure overseas. The law requires the report to include a proposal for an overseas basing strategy to meet current and future DoD missions.

Dated: August 20, 2004.

Patricia J. Walker,

Executive Director, Commission on Review of Overseas Military Facility Structure of the United States.

[FR Doc. 04–19520 Filed 8–27–04; 8:45 am]

BILLING CODE 6820–YK–M

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Adjustment of Import Limits for Certain Cotton and Man-Made Fiber Textile Products Produced or Manufactured in Bangladesh

August 24, 2004.

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Issuing a directive to the Commissioner, Bureau of Customs and Border Protection adjusting limits.

EFFECTIVE DATE: August 30, 2004.

FOR FURTHER INFORMATION CONTACT: Ross Arnold, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 482–4212. For information on the quota status of these limits, refer to the Quota Status Reports posted on the bulletin boards of each Customs port, call (202) 927–5850, or refer to the Bureau of Customs and Border Protection website at http://www.cbp.gov. For information on embargoes and quota re-openings, refer to the Office of Textiles and Apparel website at http://otexa.ita.doc.gov.

SUPPLEMENTARY INFORMATION:

Authority: Section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854); Executive Order 11651 of March 3, 1972, as amended.

The current limits for certain categories are being increased for carryover.

A description of the textile and apparel categories in terms of HTS numbers is available in the CORRELATION: Textile and Apparel Categories with the Harmonized Tariff Schedule of the United States (see **Federal Register** notice 69 FR 4926, published on February 2, 2004). Also see 68 FR 59915, published on October 20, 2003.

D. Michael Hutchinson,

Acting Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

August 24, 2004.

Commissioner,

Bureau of Customs and Border Protection, Washington, DC 20229.

Dear Commissioner: This directive amends, but does not cancel, the directive issued to you on October 14, 2003, by the Chairman, Committee for the Implementation of Textile Agreements. That directive concerns imports of certain cotton and man-made fiber textile products, produced or manufactured in Bangladesh and exported during the twelve-month period which began on January 1, 2004 and extends through December 31, 2004.

Effective on August 30, 2004, you are directed to increase the limits for the following categories, as provided for under the Uruguay Round Agreement on Textiles and Clothing:

Category	Adjusted twelve-month limit [1]
237	431,770 dozen.
331pt. [2]	39,115 dozen pairs.
335	560,084 dozen.
336/636	920,095 dozen.
340/640	6,340,760 dozen.
341	4,861,055 dozen.
352/652	21,357,166 dozen.
641	1,359,964 dozen.
645/646	825,440 dozen.

[1] The limits have not been adjusted to account for any imports exported after December 31, 2003.

[2] Category 331pt.: all HTS numbers except 6116.10.1720, 6116.10.4810, 6116.10.5510, 6116.10.7510, 6116.92.6410, 6116.92.6420, 6116.92.6430, 6116.92.6440, 6116.92.7450, 6116.92.7460, 6116.92.7470, 6116.92.8800, 6116.92.9400 and 6116.99.9510.

The Committee for the Implementation of Textile Agreements has determined that these actions fall within the foreign affairs exception of the rulemaking provisions of 5 U.S.C. 553(a)(1).

Sincerely,

D. Michael Hutchinson,

Acting Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. E4–1972 Filed 8–27–04; 8:45 am]

BILLING CODE 3510–DR–S

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Adjustment of Import Limits for Certain Cotton, Man-Made Fiber, Silk Blend and Other Vegetable Fiber Textiles and Textile Products Produced or Manufactured in India

August 24, 2004.

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Issuing a directive to the Commissioner, Bureau of Customs and Border Protection adjusting limits.

EFFECTIVE DATE: August 30, 2004.

FOR FURTHER INFORMATION CONTACT: Ross Arnold, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 482–4212. For information on the quota status of these limits, refer to the Quota Status Reports posted on the bulletin boards of each Customs port, call (202) 927–5850, or refer to the Bureau of Customs and Border Protection Web site at *http://www.cbp.gov.* For information

on embargoes and quota re-openings, refer to the Office of Textiles and Apparel Web site at *http://otexa.ita.doc.gov.*

SUPPLEMENTARY INFORMATION:

Authority: Section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854); Executive Order 11651 of March 3, 1972, as amended.

The current limits for certain categories are being adjusted for swing, and for the allowance for 100% cotton apparel items of handloomed fabric.

A description of the textile and apparel categories in terms of HTS numbers is available in the CORRELATION: Textile and Apparel Categories with the Harmonized Tariff Schedule of the United States (see **Federal Register** notice 69 FR 4926, published on February 2, 2004). Also see 68 FR 65253, published on November 19, 2003.

D. Michael Hutchinson,

Acting Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

August 24, 2004.

Commissioner,
Bureau of Customs and Border Protection, Washington, DC 20229

Dear Commissioner: This directive amends, but does not cancel, the directive issued to you on November 13, 2003, by the Chairman, Committee for the Implementation of Textile Agreements. That directive concerns imports of certain cotton, man-made fiber, silk blend and other vegetable fiber textiles and textile products, produced or manufactured in India and exported during the twelve-month period which began on January 1, 2004 and extends through December 31, 2004.

Effective on August 30, 2004, you are directed to adjust the current limits for the following categories, as provided for under the Uruguay Round Agreement on Textiles and Clothing:

Category	Adjusted twelve-month limit [1]
Levels in Group I	
219	111,232,389 square meters.
313	80,951,932 square meters.
317	26,320,059 square meters.
334/634	286,819 dozen.
335/635	1,357,975 dozen.
336/636	1,927,422 dozen.
340/640	3,462,019 dozen.
342/642	2,749,905 dozen.
347/348	1,476,824 dozen.
351/651	529,292 dozen.
363	87,918,000 numbers.
369–S [2]	1,350,089 kilograms.
Group II	
200, 201, 220, 224–227, 237, 239pt. [3], 300, 301, 331pt. [4], 332, 333, 352, 359pt. [5], 360–362, 603, 604, 611–620, 624–629, 631pt. [6], 633, 638, 639, 643–646, 652, 659pt. [7], 666pt. [8], 845, 846 and 852, as a group	199,992,775 square meters equivalent.

[1] The limits have not been adjusted to account for any imports exported after December 31, 2003.

[2] Category 369–S: only HTS number 6307.10.2005.

[3] Category 239pt.: only HTS number 6209.20.5040 (diapers).

[4] Category 331pt.: all HTS numbers except 6116.10.1720, 6116.10.4810, 6116.10.5510, 6116.10.7510, 6116.92.6410, 6116.92.6420, 6116.92.6430, 6116.92.6440, 6116.92.7450, 6116.92.7460, 6116.92.7470, 6116.92.8800, 6116.92.9400 and 6116.99.9510.

[5] Category 359pt.: all HTS numbers except 6115.19.8010, 6117.10.6010, 6117.20.9010, 6203.22.1000, 6204.22.1000, 6212.90.0010, 6214.90.0010, 6406.99.1550, 6505.90.1525, 6505.90.1540, 6505.90.2060 and 6505.90.2545.

[6] Category 631pt.: all HTS numbers except 6116.10.1730, 6116.10.4820, 6116.10.5520, 6116.10.7520, 6116.93.8800, 6116.93.9400, 6116.99.4800, 6116.99.5400 and 6116.99.9530.

[7] Category 659pt.: all HTS numbers except 6115.11.0010, 6115.12.2000, 6117.10.2030, 6117.20.9030, 6212.90.0030, 6214.30.0000, 6214.40.0000, 6406.99.1510 and 6406.99.1540.

[8] Category 666pt.: all HTS numbers except 5805.00.4010, 6301.10.0000, 6301.40.0010, 6301.40.0020, 6301.90.0010, 6302.53.0010, 6302.53.0020, 6302.53.0030, 6302.93.1000, 6302.93.2000, 6303.12.0000, 6303.19.0010, 6303.92.1000, 6303.92.2010, 6303.92.2020, 6303.99.0010, 6304.11.2000, 6304.19.1500, 6304.19.2000, 6304.91.0040, 6304.93.0000, 6304.99.6020, 6307.90.9884, 9404.90.8522 and 9404.90.9522.

The Committee for the Implementation of Textile Agreements has determined that these actions fall within the foreign affairs exception to the rulemaking provisions of 5 U.S.C. 553(a)(1).

Sincerely,
D. Michael Hutchinson,
Acting Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. E4–1973 Filed 8–25–04 8:45 am]

BILLING CODE 3510–DR–S

DEPARTMENT OF DEFENSE

Department of the Air Force

Acceptance of Group Application Under Public Law 95–202 and Department of Defense Directive (DODD) 1000.20; "North Korean Civilian Partisans Recruited, Trained, and Commanded for Military Operations by the U.S. Eighth Army, 8240th Army Unit Far East Liaison Detachment, on the Korean Peninsula and Accompanying Islands From January 15, 1951, Through July 27, 1953"

Under the provisions of section 401, Public Law 95–202 and DoD Directive 1000.20, the Department of Defense Civilian/Military Service Review Board has accepted an application on behalf of a group know as: "North Korean Civilian Partisans Recruited, Trained, and Commanded for Military Operations by the U.S. Eighth Army, 8240th Army Unit Far East Liaison Detachment, on the Korean Peninsula and Accompanying Islands From January 15, 1951, Through July 27, 1953."

Persons with information or documentation pertinent to the determination of whether the service of this group should be considered active military service to the Armed Forces of the United States are encouraged to submit such information or documentation within 60 days to the DoD Civilian/Military Service Review Board, 1535 Command Drive, EE–Wing, 3rd Floor, Andrews AFB, MD 20762–7002. Copies of documents or other materials submitted cannot be returned.

Pamela D. Fitzgerald,

Air Force Federal Register Liaison Officer.

[FR Doc. 04–19701 Filed 8–27–04; 8:45 am]

BILLING CODE 5001–05–P

DEPARTMENT OF EDUCATION

Federal Interagency Coordinating Council Meeting (FICC)

AGENCY: Federal Interagency Coordinating Council, Education.

ACTION: Notice of a public meeting.

SUMMARY: This notice describes the schedule and agenda of a forthcoming meeting of the Federal Interagency Coordinating Council (FICC). Notice of this meeting is intended to inform members of the general public of their opportunity to attend the meeting. The FICC will engage in policy discussions related to educational services for young children with autism and their families.

The meeting will be open and accessible to the general public.

Date and Time: FICC Meeting: Thursday, September 23, 2004 from 9 a.m. to 4:30 p.m.

ADDRESSES: American Institutes for Research, 1000 Thomas Jefferson Street, NW., Conference Rooms B & C, 2nd Floor Washington, DC 20007.

FOR FURTHER INFORMATION CONTACT: Obral Vance, U.S. Department of Education, 550 12th Street, SW., Room 4127, Washington, DC, 20202. Telephone: (202) 245–7559 (press 3). Individuals who use a telecommunications device for the deaf (TDD) may call (202) 205–5637.

SUPPLEMENTARY INFORMATION: The FICC is established under section 644 of the Individuals with Disabilities Education Act (20 U.S.C. 1444). The FICC is established to: (1) Minimize duplication across Federal, State and local agencies of programs and activities relating to early intervention services for infants and toddlers with disabilities and their families and preschool services for children with disabilities; (2) ensure effective coordination of Federal early intervention and preschool programs, including Federal technical assistance and support activities; and (3) identify gaps in Federal agency programs and services and barriers to Federal interagency cooperation. To meet these purposes, the FICC seeks to:

(1) Identify areas of conflict, overlap, and omissions in interagency policies related to the provision of services to infants, toddlers, and preschoolers with disabilities; (2) develop and implement joint policy interpretations on issues related to infants, toddlers, and preschoolers that cut across Federal agencies, including modifications of regulations to eliminate barriers to interagency programs and activities; and (3) coordinate the provision of technical assistance and dissemination of best practice information.

Individuals who need accommodations for a disability in order to attend the meeting (i.e., interpreting services, assistive listening devices, material in alternative format) should notify Obral Vance at (202) 245–7559 (press 3) or (202) 205–5637 (TDD) ten days in advance of the meeting. The meeting location is accessible to individuals with disabilities.

Summary minutes of the FICC meetings will be maintained and available for public inspection at the U.S. Department of Education, 550 12th Street, SW., Room 4127, Washington, DC 20202, from the hours of 9 a.m. to 5 p.m., weekdays, except Federal Holidays.

Troy R. Justesen,

Acting Deputy Assistant Secretary for Special Education and Rehabilitative Services.

[FR Doc. 04–19765 Filed 8–27–04; 8:45 am]

BILLING CODE 4000–01–M

DEPARTMENT OF EDUCATION

Submission for OMB Review; Comment Request

AGENCY: Department of Education.

SUMMARY: The Leader, Regulatory Information Management Group, Office of the Chief Information Officer invites comments on the submission for OMB review as required by the Paperwork Reduction Act of 1995.

DATES: Interested persons are invited to submit comments on or before September 29, 2004.

ADDRESSES: Written comments should be addressed to the Office of Information and Regulatory Affairs, Attention: Carolyn Lovett, Desk Officer, Department of Education, Office of Management and Budget, 725 17th Street, NW., Room 10235, New Executive Office Building, Washington, DC 20503 or faxed to (202) 395–6974.

SUPPLEMENTARY INFORMATION: Section 3506 of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35) requires that the Office of Management and Budget (OMB) provide interested Federal agencies and the public an early opportunity to comment on information collection requests. OMB may amend or waive the requirement for public consultation to the extent that public participation in the approval process would defeat the purpose of the information collection, violate State or Federal law, or substantially interfere with any agency's ability to perform its statutory obligations. The Leader, Regulatory Information Management Group, Office of the Chief Information Officer, publishes that notice containing proposed information collection requests prior to submission of these requests to OMB. Each proposed information collection, grouped by office, contains the following: (1) Type of review requested, *e.g.* new, revision, extension, existing or reinstatement; (2) title; (3) summary of the collection; (4) description of the need for, and proposed use of, the information; (5) respondents and frequency of collection; and (6) reporting and/or recordkeeping burden. OMB invites public comment.

Dated: August 25, 2004.

Angela C. Arrington,

Leader, Regulatory Information Management Group, Office of the Chief Information Officer.

Federal Student Aid

Type of Review: Extension.

Title: Consolidation Loan Rebate Fee Report.

Frequency: Monthly.

Affected Public: Businesses or other for-profit; State, Local, or Tribal Gov't, SEAs or LEAs.

Reporting and Recordkeeping Hour Burden:

Responses: 7,560.

Burden Hours: 8,190.

Abstract: The Consolidation Loan Rebate Fee Report for payment by check or Electronic Funds Transfer (EFT) will be used by approximately 817 lenders participating in the Title IV, Part B loans program. The information collected is used to transmit interest payment rebate fees to the Secretary of Education.

Requests for copies of the submission for OMB review; comment request may be accessed from *http://edicsweb.ed.gov*, by selecting the "Browse Pending Collections" link and by clicking on link number 2563. When you access the information collection, click on "Download Attachments" to view. Written requests for information should be addressed to U.S. Department of Education, 400 Maryland Avenue, SW., Potomac Center, 9th Floor, Washington, DC 20202–4700. Requests may also be electronically mailed to the Internet address *OCIO_RIMG@ed.gov* or faxed to 202–245–6621. Please specify the complete title of the information collection when making your request.

Comments regarding burden and/or the collection activity requirements should be directed to Joseph Schubart at his e-mail address *Joe.Schubart@ed.gov*. Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339.

[FR Doc. E4–1971 Filed 8–27–04; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF ENERGY

[FE Docket Nos. 04–71–NG, 04–72–NG, 04–68–NG, 04–73–NG, 04–74–NG]

Office of Fossil Energy; Mexicana de Cobre, S.A. de C.V., Sacramento Municipal Utility District, Sprague Energy Group, Empire Natural Gas Corporation, Marathon Oil Company; Orders Granting and Amending Authority to Import and Export Natural Gas

AGENCY: Office of Fossil Energy, DOE.

ACTION: Notice of orders.

SUMMARY: The Office of Fossil Energy (FE) of the Department of Energy gives notice that during July 2004, it issued Orders granting authority to import and export natural gas. These Orders are summarized in the attached appendix and may be found on the FE Web site at *http://www.fe.doe.gov* (select gas regulation). They are also available for inspection and copying in the Office of Natural Gas & Petroleum Import & Export Activities, Docket Room 3E–033, Forrestal Building, 1000 Independence Avenue, SW., Washington, DC 20585, (202) 586–9478. The Docket Room is open between the hours of 8 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays.

Issued in Washington, DC, on August 19th 2004.

Sally Kornfeld,

Manager, Natural Gas Regulation Office of Natural Gas & Petroleum Import & Export Activities, Office of Fossil Energy.

Appendix—Orders Granting Import/Export Authorizations

DOE/FE AUTHORITY

Order No.	Date issued	Importer/exporter FE Docket No.	Import volume (Bef)	Export volume (Bef)	Comments
2002	7–1–04	Mexicana de Cobre S.A. de C.V. 04–71–NG		17.52	Export natural gas to Mexico, beginning on April 27, 2003, and extending through April 26, 2005.
2003	7–1–04	Sacramento Municipal Utility District 04–72–NG.	50		Import natural gas from Canada, beginning on July 1, 2004, and extending through June 30, 2006.
2004	7–9–04	Sprague Energy Corp. 04–68–NG	50		Import natural gas from Canada, beginning on January 1, 2003, and extending through December 31, 2004.
2005	7–15–04	Empire Natural Gas Corporation 04–73–NG	4		Import natural gas from Canada, beginning on July 15, 2004, and extending through July 14, 2006.
2006	7–29–04	Marathon Oil Company 04–74–NG	100		Import and export natural gas from and to Canada and Mexico, beginning on August 1, 2004, and extending through July 31, 2006.

[FR Doc. 04–19666 Filed 8–27–04; 8:45 am]
BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Bonneville Power Administration

COB Energy Facility

AGENCY: Bonneville Power Administration (BPA), Department of Energy (DOE).

ACTION: Notice of availability of record of decision (ROD).

SUMMARY: This notice announces the availability of the ROD for the electrical interconnection of the COB Energy Facility with the Federal Columbia River Transmission System. Based on the COB Energy Facility Final Environmental Impact Statement (DOE/EIS–0343, June 2004), BPA has decided to offer contract terms providing for interconnection of the COB Energy Facility, proposed for siting in Klamath County, Oregon, at BPA's Captain Jack Substation, also in Klamath County, Oregon.

ADDRESSES: Copies of the ROD and EIS may be obtained by calling BPA's toll-free document request line, 1–800–622–4520. The ROD and EIS are also available on our Web site, *http://www.efw.bpa.gov.*

FOR FURTHER INFORMATION, CONTACT: Thomas C. McKinney, Bonneville Power Administration—KEC–4, P.O. Box 3621, Portland, Oregon, 97208–3621; toll-free telephone number 1–800–282–3713; fax number 503–230–5699; or e-mail *tcmckinney@bpa.gov.*

Issued in Portland, Oregon, on August 20, 2004.

Stephen J. Wright,

Administrator and Chief Executive Officer.

[FR Doc. 04–19667 Filed 8–27–04; 8:45 am]
BILLING CODE 6450–01–P

FEDERAL ENERGY REGULATORY COMMISSION

[Docket No. IC04–549B–001, FERC–549B]

Commission Information Collection Activities, Proposed Collection; Comment Request; Submitted for OMB Review

August 23, 2004.

AGENCY: Federal Energy Regulatory Commission.

ACTION: Notice.

SUMMARY: In compliance with the requirements of Section 3507 of the Paperwork Reduction Act of 1995, 44 U.S.C. 3507, the Federal Energy Regulatory Commission (Commission) has submitted the information collection described below to the Office of Management and Budget (OMB) for review and reinstatement of this information collection requirement. Any interested person may file comments directly with OMB and should address a copy of those comments to the Commission as explained below. The Commission did not receive any comments in response to an earlier **Federal Register** notice of April 1, 2004

(69 FR 17135) and has made this notation in its submission to OMB.

DATES: Comments on the collection of information are due by September 30, 2004.

ADDRESSES: Address comments on the collection of information to the Office of Management and Budget, Office of Information and Regulatory Affairs, Attention: Federal Energy Regulatory Commission Desk Officer. Comments to OMB should be filed electronically, c/o *PamelaL.Beverly@omb.eop.gov* and include the OMB Control No. as a point of reference. The Desk Officer may be reached by telephone at (202) 395–7856. A copy of the comments should also be sent to the Federal Energy Regulatory Commission, Office of the Executive Director, ED–30, Attention: Michael Miller, 888 First Street NE., Washington, DC 20426. Comments may be filed either in paper format or electronically. Those persons filing electronically do not need to make a paper filing. For paper filings, such comments should be submitted to the Office of the Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426 and should refer to Docket No. IC04–549B–001.

Documents filed electronically via the Internet must be prepared in WordPerfect, MS Word, Portable Document Format, or ASCII format. To file the document, access the Commission's Web site at *http://www.ferc.gov* and click on "Make an E-filing," and then follow the instructions for each screen. First time users will have to establish a user name and password. The Commission will send an automatic acknowledgment to the sender's e-mail address upon receipt of comments. User assistance for electronic filings is available at (202) 502–8258 or by e-mail to *efiling@ferc.gov*. Comments should not be submitted to the e-mail address.

All comments are available for review at the Commission 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 (866) 208–3676, or for TTY, contact (202) 502–8659.

FOR FURTHER INFORMATION CONTACT: Michael Miller may be reached by telephone at (202) 502–8415, by fax at (202) 273–0873, and by e-mail at *michael.miller@ferc.gov*.

SUPPLEMENTARY INFORMATION:

Description

The information collection submitted for OMB review contains the following:

1. *Collection of Information*: FERC–549B "Gas Pipeline Rates: Capacity Information."

2. *Sponsor:* Federal Energy Regulatory Commission.

3. *Control No.:* 1902–0169.

The Commission is now requesting that OMB approve and reinstate with a three-year extension of the expiration date, with no changes to the existing collection. The information filed with the Commission is mandatory.

4. *Necessity of the Collection of Information:* Submission of the information is necessary to enable the Commission to carry out its responsibilities in implementing the statutory provisions of Sections 4, 5, and 16 of the Natural Gas Act, 15 U.S.C. 717c–717o, PL 75–688, 52 Stat. 822 and 830) and Title III of the Natural Gas Policy Act, 15 U.S.C. 3301–3432, PL 95–621. FERC–549B contains both the Index of Customers and the Capacity Report under Part 284 of the Commission's regulations.

In Order No. 636, the Commission established a capacity release mechanism under which shippers can release firm transportation and storage capacity on either a short or long term basis to other shippers wanting to obtain capacity. In Order No. 636–A, the Commission determined that the efficiency of the capacity release mechanism would be enhanced by standardizing both the content of the capacity release information and the methods by which shippers access that information.

In Order No. 637, the Commission amended its regulations in response to the growing development of more competitive markets for natural gas. In the final rule, the Commission revised its current regulatory framework to improve the efficiency of the market and provide captive customers with the opportunity to reduce their cost of holding long-term capacity while continuing to protect against the exercise of market power.

To create greater substitution between different forms of capacity and enhance competition across the pipeline grid, Order No. 637 also revised the regulations regarding the following: scheduling; segmentation and flexible rights; penalties; and reporting requirements. The Commission revised pipeline scheduling procedures so that capacity release transactions will be better coordinated with the nomination process. Pipelines are required to permit shippers to segment capacity whenever feasible, which increases potential capacity alternatives and helps to facilitate the development of market centers. The changes to the reporting requirements were to provide greater reliability about capacity availability and price data so shippers could make informed decisions in a competitive market as well as improve shippers' and the Commission's availability to monitor marketplace behavior to detect, and remedy anticompetitive behavior.

In Order No. 582, the Commission created the Index of Customers filing requirement. Pipelines are required to identify all firm transportation services and contract demand for each customer for each rate schedule. The Pipeline must file on the first business day of each calendar quarter and also post the information on their Internet web sites. These filings include the following data elements: shipper's name (full legal name); contract identifier; rate schedule; contract start date; contract end date; contract quantity; receipt points; delivery points; information on capacity held by rate zones to permit verification of reservation billing determinants; data to assess storage capacity and conjunction restrictions if any, (provisions that operate across multiple points or contracts and may limit a shipper's rights at a particular receipt or delivery point). The index contains fundamental data about the natural gas industry—how much of the pipeline's capacity that shippers have under contract. With this information the Commission remains apprised of trends in the industry, the willingness of shippers to hold firm capacity, the average length of time capacity remains under contract, the proportion of capacity rolling over under specific provisions. This information provides the Commission with the ability to analyze capacity held on pipelines and provides capacity information to the market which aids the capacity release system by enabling shippers to locate those holding capacity rights that shippers may want to acquire. The Commission implements these filing requirements in the Code of Regulations (CFR) under 18 CFR Part 284.12 and .13.

5. *Respondent Description:* The respondent universe currently comprises 100 companies (on average per year) subject to the Commission's jurisdiction.

6. *Estimated Burden:* 160,789 total hours (includes 1,800 hours for Index of Customers), 100 respondents (average per year), 5.66 responses per respondent (Capacity reports) and 6 responses per respondent (Index of Customers), and 280.9 hours (capacity reports) 3 hours

(Index of Customers) per response (average).

7. *Estimated Cost Burden to Respondents:* 160,789 hours / 2080 hours per years × $107,185 per year = $8,285,679. The cost per respondent is equal to $82,857.

Statutory Authority

Sections 4, 5, and 16 of the Natural Gas Act, 15 U.S.C.717c–717o , Pub. L. 75–688, 52 Stat. 822 and 830) and Title III of the Natural Gas Policy Act, 15 U.S.C. 3301–3432, Pub. L. 95–621.

Magalie R. Salas,

Secretary.

[FR Doc. E4–1959 Filed 8–27–04; 8:45 am]

BILLING CODE 6717–01–P

FEDERAL ENERGY REGULATORY COMMISSION

[Docket No. RP04–460–000]

Kern River Gas Transmission Company; Notice of Proposed Changes in FERC Gas Tariff

August 23, 2004.

Take notice that on August 18, 2004, Kern River Gas Transmission Company (Kern River) tendered for filing as part of its FERC Gas Tariff, Second Revised Volume No. 1, the following tariff sheets, to be effective October 1, 2004:

2nd Revised Twelfth Revised Sheet No. 5
2nd Revised Eighth Revised Sheet No. 5-A
2nd Revised Tenth Revised Sheet No. 6
1st Revised First Revised Sheet No. 7.

Kern River states that the purpose of this filing is to update Kern River's tariff to reflect the Annual Charge Adjustment (ACA) factor to be effective for the twelve-month period beginning October 1, 2004, pursuant to Section 154.402 of the Commission's regulations. The ACA factor of $0.0019 per Dth specified by the Commission in its August 6, 2004 issuance is a decrease of $0.0002 per Dth from the current ACA factor in Kern River's tariff.

Kern River states that it has served a copy of this filing upon its customers and interested State regulatory commissions.

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 and 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 in accordance with the provisions of Section 154.210 of the Commission's regulations (18 CFR 154.210). Anyone filing an intervention or protest must serve a copy of that document on the Applicant. Anyone filing an intervention or protest on or before the intervention or protest date need not serve motions to intervene or protests on persons other than the Applicant.

The Commission encourages electronic submission of protests and interventions in lieu of paper using the "eFiling" link at *http://www.ferc.gov.* Persons unable to file electronically should submit an original and 14 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

This filing is accessible on-line at *http://www.ferc.gov*, using the "eLibrary" link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an "eSubscription" link on the web site that enables subscribers to receive e-mail notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please e-mail *FERCOnlineSupport@ferc.gov*, or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Magalie R. Salas,

Secretary.

[FR Doc. E4–1958 Filed 8–27–04; 8:45 am]

BILLING CODE 6717–01–P

FEDERAL ENERGY REGULATORY COMMISSION

[Docket No. RP98–52–056]

Southern Star Central Gas Pipeline, Inc.; Notice of Refund Report

August 23, 2004.

Take notice that, on August 18, 2004, Southern Star Central Gas Pipeline, Inc. (Southern Star), formerly Williams Gas Pipelines Central, Inc., submitted a compliance filing pursuant to Commission order issued September 10, 1997, in Docket Nos. RP97–369–000, *et al.*, regarding collection of Kansas ad valorem taxes and the subsequent refunds.

Southern Star states that copies of the filing were served on parties on the official service list in the above-captioned proceeding.

Any person desiring to protest this filing must file in accordance with Rule 211 of the Commission's Rules of Practice and Procedure (18 CFR 385.211). Protests to this filing will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Such protests must be filed on or before the date as indicated below. Anyone filing a protest must serve a copy of that document on all the parties to the proceeding.

The Commission encourages electronic submission of protests in lieu of paper using the "eFiling" link at *http://www.ferc.gov.* Persons unable to file electronically should submit an original and 14 copies of the protest to the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

This filing is accessible on-line at *http://www.ferc.gov*, using the "eLibrary" link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an "eSubscription" link on the Web site that enables subscribers to receive email 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.

Protest Date: 5 p.m. Eastern Standard Time on August 30, 2004.

Magalie R. Salas,

Secretary.

[FR Doc. E4–1956 Filed 8–27–04; 8:45 am]

BILLING CODE 6717–01–P

FEDERAL ENERGY REGULATORY COMMISSION

[Project No. 2064–004–WI]

Flambeau Hydro LLC; Notice of Availability of Environmental Assessment

August 23, 2004.

In accordance with the National Environmental Policy Act of 1969 and the Federal Energy Regulatory Commission's regulations, 18 CFR Part 380 (Order No. 486, 52 F.R. 47879), Commission staff have reviewed the application for a new license for the Winter Hydroelectric Project, located on the East Fork of the Chippewa River, in Sawyer County, Wisconsin, and have prepared an Environmental Assessment (EA). The EA analyzes the potential environmental effects of relicensing the project and concludes that issuing a new license for the project, with appropriate environmental measures, would not constitute a major Federal action significantly affecting the quality of the human environment.

A copy of the EA is on file with the Commission and is available for public inspection. The EA 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, contact FERC Online Support at *FERCOnlineSupport@ferc.gov* or toll-free at 1–866–208–3676, or for TTY, (202) 502–8659.

Any comments should be filed within 30 days from the issuance date of this notice, and should be addressed to the Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Room 1–A, Washington, DC 20426. Please affix "Winter Project No. 2064" to all comments. 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 under the "e-Filing" link. For further information, contact Michael Spencer at (202) 502–6093, or e-mail *michael.spencer@ferc.gov*.

Magalie R. Salas,

Secretary.

[FR Doc. E4–1957 Filed 8–27–04; 8:45 am]

BILLING CODE 6717–01–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–7807–8]

Agency Information Collection Activities: Proposed Collection; Comment Request; Request for Comments on Seven Proposed Information Collection Requests

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*), this document announces that EPA is planning to submit seven continuing Information Collection Requests (ICR) to the Office of Management and Budget (OMB). Before submitting the ICRs to OMB for review and approval, EPA is soliciting comments on specific aspects of the information collections as described in the **SUPPLEMENTARY INFORMATION** section.

DATES: Comments must be submitted on or before October 29, 2004.

ADDRESSES: Comments may be submitted electronically, by mail, or through hand delivery/courier. Follow the detailed instructions as provided in section I.B. of the **SUPPLEMENTARY INFORMATION**.

FOR FURTHER INFORMATION CONTACT: Direct questions or requests for copies of these ICRs to: Jack Faulk, Industrial Branch, Water Permits Division, Office of Wastewater Management; tel.: (202) 564–0768, fax: (202) 564–6431; or e-mail: *faulk.jack@epa.gov*. Or see Section I.C of the **SUPPLEMENTARY INFORMATION.**

SUPPLEMENTARY INFORMATION:

I. General Information for All ICRs

An Agency may not conduct or sponsor, and a person is not required to respond to, a collection information unless it displays a currently valid OMB control number. The OMB control numbers for EPA's regulations are displayed in 40 CFR part 9.

The EPA would like to solicit comments 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 automated collection techniques or other forms of information technology, *e.g.*, permitting electronic submission of responses.

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.

A. How Can I Get Copies of the ICR Supporting Statement and Other Related Information?

1. *Docket.* EPA has established an official public docket for these ICRs under: (1) Docket ID No. OW–2004–0023 for Best Management Practices for Bleached Papergrade Kraft and Soda Subcategory and the Papergrade Sulfite Subcategory of the Pulp, Paper, and Paperboard Point Source Category, EPA ICR No. 1829.02, OMB Control No. 2040–0207; (2) Docket ID No. OW–2004–0024 for Milestones Plan for the Bleached Papergrade Kraft and Soda Subcategory of the Pulp, Paper, and Paperboard Point Source Category, EPA ICR No. 1877.02, OMB Control No. 2040–0202; (3) Docket ID No. OW–2004–0025 for Minimum Monitoring Requirements for the Pulp, Paper, and Paperboard Effluent Limitations Guidelines and Standards, EPA ICR No. 1878.01, OMB Control No. 2040–0243; (4) Docket ID No. OW–2004–0026 for Baseline Standards and Best Management Practices for the Coal Mining Point Category (40 CFR part 434)—Coal Remining Sub-category and Western Alkaline Coal Mining Subcategory, EPA ICR No. 1944.02, OMB Control No. 2040–0239; (5) Docket ID No. OW–2004–0027 for Information Collection Request for Cooling Water Intake Structures New Facility Final Rule, EPA ICR No. 1973.02, OMB Control No. 2040–0241; (6) Docket ID No. OW–2004–0028 for Certification in lieu of Chloroform Minimum Monitoring Requirements for direct and indirect discharging mills in the bleached papergrade kraft and soda subcategory of the pulp, Paper, Paperboard Point Source Category, EPA ICR No. 2015.01, OMB Control No. 2040–0242; and (7) Docket ID No. OW–2004–0029 for Pollution Prevention Compliance Alternative; Transportation Equipment Cleaning (TEC) Point Source Category (40 CFR part 442), EPA ICR No. 2018.01, OMB Control No. 2040–0235.

The official public docket consists of the documents specifically referenced in the ICRs, any public comments received, and other information related to these ICRs. Although a part of the official docket, the public docket does not include Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. The official public docket is the collection of materials that is available for public viewing at the Water Docket in the EPA Docket Center, (EPA/DC) EPA West, Room B135, 1301 Constitution Ave., NW., Washington, DC. The EPA Docket Center Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is (202) 566–1744, and the telephone

number for the Water Docket is (202) 566–2426.

2. *Electronic Access.* You may access this **Federal Register** document electronically through the EPA Internet under the "**Federal Register**" listings at *http://www.epa.gov/fedrgstr/.*

You may use EPA Dockets at *http://www.epa.gov/edocket/* to submit or view public comments, access the index listing of the contents of the official public 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 identification number.

Certain types of information will not be placed in the EPA Dockets. Information claimed as CBI, and other information whose disclosure is restricted by statute, which is not included in the official public docket, will not be available for public viewing in EPA's electronic public docket. EPA's policy is that copyrighted material will not be placed in EPA's electronic public docket but will be available only in printed, paper form in the official public docket. To the extent feasible, publicly available docket materials will be made available in EPA's electronic public docket. When a document is selected from the index list in EPA Dockets, the system will identify whether the document is available for viewing in EPA's electronic public docket. Although not all docket materials may be available electronically, you may still access any of the publicly available docket materials through the docket facility identified in section I.A. EPA intends to work towards providing electronic access to all of the publicly available docket materials through EPA's electronic public docket.

For public commenters, it is important to note that EPA's policy is that public comments, whether submitted electronically or in paper, will be made available for public viewing in EPA's electronic public docket as EPA receives them and without change, unless the comment contains copyrighted material, CBI, or other information whose 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 EPA's electronic public docket. The entire printed comment, including the copyrighted material, will be available in the public docket.

Public comments submitted on computer disks that are mailed or delivered to the docket will be transferred to EPA's electronic public docket. Public comments that are mailed or delivered to the Docket will be scanned and placed in EPA's electronic public docket. Where practical, physical objects will be photographed, and the photograph will be placed in EPA's electronic public docket along with a brief description written by the docket staff.

For additional information about EPA's electronic public docket visit EPA Dockets online or see 67 FR 38102, May 31, 2002.

B. How and To Whom Do I Submit Comments?

You may submit comments electronically, by mail, by facsimile, or through hand delivery/courier. To ensure proper receipt by EPA, identify the appropriate docket identification number in the subject line on the first page of your comment. Please ensure that your comments are submitted within the specified comment period. Comments received after the close of the comment period will be marked "late." EPA is not required to consider these late comments in formulating a final decision. If you wish to submit CBI or information that is otherwise protected by statute, please contact the person listed in **FOR FURTHER INFORMATION CONTACT**. Do not use EPA Dockets or e-mail to submit CBI or information protected by statute.

1. *Electronically.* If you submit an electronic comment as described below, EPA recommends that you include your name, mailing address, and an e-mail address or other contact information in the body of your comment. Also include this contact information on the outside of any disk or CD ROM you submit, and in any cover letter accompanying the disk or CD ROM. This ensures that you can be identified as the submitter of the comment and allows EPA to contact you in case EPA cannot read your comment due to technical difficulties or needs further information on the substance of your comment. EPA's policy is that EPA will not edit your comment, and any identifying or contact information provided in the body of a comment will be included as part of the comment that is placed in the official public docket, and made available in EPA's electronic public docket. 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.

i. *EPA Dockets.* Your use of EPA's electronic public docket to submit comments to EPA electronically is EPA's preferred method for receiving comments. Go directly to EPA Dockets at *http://www.epa.gov/edocket,* and follow the online instructions for submitting comments. To access EPA's electronic public docket from the EPA Internet Home Page, select "Information Sources," "Dockets," and "EPA Dockets." Once in the system, select "search," and then key in the appropriate Docket ID No. The system is an "anonymous access" system, which means EPA will not know your identity, e-mail address, or other contact information unless you provide it in the body of your comment.

ii. *E-mail.* Comments may be sent by electronic mail (e-mail) to: *ow-docket@epa.gov,* Attention Docket ID No. (please use appropriate Docket ID number). In contrast to EPA's electronic public docket, EPA's e-mail system is not an "anonymous access" system. If you send an e-mail comment directly to the Docket without going through EPA's electronic public docket, EPA's e-mail system automatically captures your e-mail address. E-mail addresses that are automatically captured by EPA's e-mail system are included as part of the comment that is placed in the official public docket, and made available in EPA's electronic public docket.

iii. *Disk or CD ROM.* You may submit comments on a disk or CD ROM that you mail to the mailing address identified in section I.B.2. These electronic submissions will be accepted in WordPerfect or ASCII file format. Avoid the use of special characters and any form of encryption.

2. *By Mail.* Send four copies of your comments to: Water Docket, Environmental Protection Agency, Mail code: #4101T, 1200 Pennsylvania Ave., NW., Washington, DC, 20460, Attention Docket ID No. (please use appropriate Docket ID number).

3. *By Hand Delivery or Courier.* Deliver your comments to: EPA Docket Center, EPA West, Room B102, 1301 Constitution Avenue, NW., Washington, DC, Attention Docket ID No. (please use appropriate Docket ID number). Such deliveries are only accepted during the Docket's normal hours of operation as identified in section I.A.1.

C. What Should I Consider as 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.

2. Describe any assumptions that you used.

3. Provide 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 your estimate.

5. Provide specific examples to illustrate your concerns.

6. Offer alternatives.

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

8. To ensure proper receipt by EPA, identify the appropriate docket identification number in the subject line on the first page of your response. It would also be helpful if you provided the name, date, and **Federal Register** citation related to your comments.

II. List of ICRs Planned To Be Submitted

In compliance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*), this notice announces that EPA is planning to submit the following seven continuing ICR requests to OMB:

(1) Best Management Practices for Bleached Papergrade Kraft and Soda Subcategory and the Papergrade Sulfite Subcategory of the Pulp, Paper, and Paperboard Point Source Category, EPA ICR No. 1829.02, OMB Control No. 2040–0207, expiring on June 30, 2005.

(2) Milestones Plan for the Bleached Papergrade Kraft and Soda Subcategory of the Pulp, Paper, and Paperboard Point Source Category, EPA ICR No. 1877.02, OMB Control No. 2040–0202, expiring on June 30, 2005.

(3) Minimum Monitoring Requirements for the Pulp, Paper, and Paperboard Effluent Limitations Guidelines and Standards, EPA ICR No. 1878.01, OMB Control No. 2040–0243, expiring on February 28, 2005.

(4) Baseline Standards and Best Management Practices for the Coal Mining Point Category (40 CFR part 434)—Coal Remining Sub-category and Western Alkaline Coal Mining Subcategory, EPA ICR No. 1944.02, OMB Control No. 2040–0239, expiring on November 30, 2004.

(5) Information Collection Request for Cooling Water Intake Structures New Facility Final Rule, EPA ICR No. 1973.02, OMB Control No. 2040–0241, expiring on November 30, 2004.

(6) Certification in lieu of Chloroform Minimum Monitoring Requirements for direct and indirect discharging mills in the bleached papergrade kraft and soda subcategory of the Pulp, Paper, Paperboard Point Source Category, EPA ICR No. 2015.01, OMB Control No. 2040–0242, expiring on February 28, 2005.

(7) Pollution Prevention Compliance Alternative; Transportation Equipment Cleaning (TEC) Point Source Category (40 CFR part 442), EPA ICR No. 2018.01, OMB Control No. 2040–0235, expiring on October 31, 2004.

A. Contact Individual for ICRs

For all seven ICRs, please contact: Jack Faulk, Industrial Branch, Water Permits Division, Office of Wastewater Management; tel.: (202) 564–0768, fax: (202) 564–6431; or e-mail: *faulk.jack@epa.gov.*

B. Individual ICRs

(1) Best Management Practices for Bleached Papergrade Kraft and Soda Subcategory and the Papergrade Sulfite Subcategory of the Pulp, Paper, and Paperboard Point Source Category, EPA ICR No. 1829.02, OMB Control No. 2040–0207, expiring on June 30, 2005.

Affected Entities: Entities potentially affected by this action are those operations that chemically pulp wood fiber using kraft or soda methods to produce bleached papergrade pulp, paperboard, coarse paper, tissue paper, fine paper, and/or paperboard; those operations that chemically pulp wood fiber using papergrade sulfite methods to produce pulp and/or paper; and State and local governments which regulate discharges where such operations are located.

Abstract: The EPA has established BMP provisions as part of final amendments to 40 CFR part 430, the Pulp, Paper and Paperboard Point Source Category promulgated on April 15, 1998 (*see* 63 FR 18504–18751). These provisions, promulgated under the authorities of sections 304, 307, 308, 402, and 501 of the Clean Water Act, require that owners or operators of bleached papergrade kraft, soda and sulfite mills implement site-specific BMPs to prevent or otherwise contain leaks and spills of spent pulping liquors, soap and turpentine and to control intentional diversions of these materials.

EPA has determined that these BMPs are necessary because the materials controlled by these practices, if spilled or otherwise lost, can interfere with wastewater treatment operations and lead to increased discharges of toxic, nonconventional, and conventional pollutants. For further discussion of the need for BMPs, *see* section VI.B.7 of the preamble to the amendments to 40 CFR part 430 (*see* 63 FR 18561–18566).

The BMP program includes information collection requirements that are intended to help accomplish the overall purposes of the program by, for example, training personnel, see 40 CFR 430.03(c)(4), analyzing spills that occur, see 40 CFR 430.03(c)(5), identifying equipment items that might need to be upgraded or repaired, see 40 CFR 430.03(c)(2), and performing monitoring—including the operation of monitoring systems—to detect leaks, spills and intentional diversion and generally to evaluate the effectiveness of the BMPs, see 40 CFR 430.03(c)(3), (c)(10), (h), and (i). The regulations also require mills to develop and, when appropriate, amend plans specifying how the mills will implement the specified BMPs, and to certify to the permitting or pretreatment authority that they have done so in accordance with good engineering practices and the requirements of the regulation. See 40 CFR 430.03(d), (e) and (f). The purpose of those provisions is, respectively, to facilitate the implementation of BMPs on a site-specific basis and to help the regulating authorities to ensure compliance without requiring the submission of actual BMP plans. Finally, the record keeping provisions are intended to facilitate training, to signal the need for different or more vigorously implemented BMPs, and to facilitate compliance assessment. See 40 CFR 430.03(g).

EPA has structured the regulation to provide maximum flexibility to the regulated community and to minimize administrative burdens on NPDES permit and pretreatment control authorities that regulate bleached papergrade kraft and soda and papergrade sulfite mills. Although EPA does not anticipate that mills will be required to submit any confidential business information or trade secrets as part of this ICR, all data claimed as confidential business information will be handled by EPA pursuant to 40 CFR part 2.

Burden Statement: The recurring burden for a mill to periodically review and amend the BMP plan, prepare spill reports, perform additional monitoring, hold refresher training, and conduct recordkeeping and reporting is estimated to be 617, 641, and 665 hours annually per mill for simple, moderately complex, and complex mills, respectively. The total recurring cost for the estimated 41 bleached papergrade kraft and soda and 11 papergrade sulfite mills associated with the BMP requirements is estimated at $1,807,670.

The recurring burden to State NPDES and pretreatment control authorities is estimated at ten hours per year per facility for reviewing periodic (*e.g.*, annual or semi-annual) monitoring reports and conducting compliance reviews. The total recurring costs for State NPDES and pretreatment control authorities is estimated at $32,100.

(2) Milestones Plan, Effluent Limitations Guidelines and Standards. Bleached Papergrade Kraft and Soda Subcategory, Pulp, Paper, and Paperboard Manufacturing Category,

EPA ICR No. 1877.02, OMB Control No. 2040–0202, expiring June 30, 2005.

Affected Entities: Entities potentially affected by this action are those existing, direct discharging mills with operations that chemically pulp wood fiber using kraft or soda methods to produce bleached papergrade pulp, paperboard, coarse paper, tissue paper, fine paper, and/or paperboard and that choose to participate in the Voluntary Incentives Program established under 40 CFR 430.24(b).

Abstract: The EPA has established the Milestones Plan requirements for enrollment in the Voluntary Advanced Technology Incentives Program (VATIP) as part of final amendments to 40 CFR part 430, the Pulp, Paper and Paperboard Point Source Category promulgated on April 15, 1998 (*see* 63 FR 18504–18751). The Milestones Plan provisions, promulgated under the authorities of sections 301, 304, 306, 307, 308, 402 and 501 of the Clean Water Act, require owners or operators of bleached papergrade kraft and soda mills enrolled in the VATIP to submit information to describe each envisioned new technology component or process modification the mill intends to implement in order to achieve the VATIP Best Available Technology (BAT) limits, including a master schedule showing the sequence of implementing new technologies and process modifications and identifying critical-path relationships within the sequence.

EPA has determined that the Milestones Plan will provide valuable benchmarks for reasonable inquiries into progress being made by participating mills toward achievement of the interim and ultimate Tier limits of the VATIP and will offer the necessary flexibility to the mill and the permit writer so that the milestones selected to be incorporated into the mill's NPDES permit reflect the unique situation of the mill.

The Milestones Plan must include the following information for each new individual technology or process modification: (1) A schedule of anticipated dates for associated construction, installation, and/or process changes; (2) the anticipated dates of completion for those steps; (3) the anticipated date that the Advanced Technology process or individual component will be fully operational; (4) and the anticipated reductions in effluent quantity and improvements in effluent quality as measured at the bleach plant(for bleach plant, pulping area and evaporator condensates flow and BAT parameters other than Adsorbable Organic Halides (AOX)) and the end of the pipe (for AOX). For those technologies or process modifications that are not commercially available or demonstrated on a full-scale basis at the time of plan development, the Plan is required to include a schedule for research (if necessary), process development, and mill trials, including major milestone dates and the anticipated date the technology or process change will be available for mill implementation. The Plan must also include contingency plans in the event that any of the technologies or processes specified in the Milestones Plan need to be adjusted or alternative approaches developed to ensure that the ultimate tier limits are achieved by the deadlines specified in 40 CFR 430.24(b)(4)(ii).

EPA has structured the Plan to provide maximum flexibility to the regulated community and to minimize administrative burdens on NPDES permit authorities that regulate bleached papergrade kraft and soda mills. All data claimed as confidential business information or trade secrets submitted by the mills as part of this ICR will be handled by EPA pursuant to 40 CFR part 2.

Burden Statement: EPA estimates that 29 mills will voluntarily enroll into VATIP. The burden for a mill (which chooses to participate voluntarily in the incentives program) to prepare and submit a Milestones Plan is estimated to average approximately 120 hours per respondent. This is a one-time burden. State NPDES permitting authorities burden to review the Milestones Plans is estimated at 16 hours per respondent as an initial burden with a average recurring annual review burden of 6 hours per respondent. The total initial cost for the 29 mills anticipated to enroll in the VATIP and thus be required to develop a Milestones Plan is estimated at $480,900. The total initial burden incurred by State permitting authorities is estimated at $15,680. The total recurring burden incurred by State permitting authorities is estimated at $5,880. There is no recurring burden for mill respondents associated with this information collection.

(3) Minimum Monitoring Requirements for the Pulp, Paper, and Paperboard Effluent Limitations Guidelines and Standards, EPA ICR No. 1878.01, OMB Control No. 2040–0243, expiring on February 28, 2005.

Affected Entities: Entities potentially affected by this action are those operations that chemically pulp wood fiber using kraft or soda methods to produce bleached papergrade pulp, paperboard, coarse paper, tissue paper, fine paper, and/or paperboard; and those operations that chemically pulp wood fiber using papergrade sulfite methods to produce pulp and/or paper.

Abstract: The EPA imposed minimum monitoring requirements on bleached papergrade kraft and soda (subpart B) and papergrade sulfite (subpart E) mills under 40 CFR part 430 as part of the effluent limitations guidelines and standards promulgated on April 15, 1998 (63 FR 18504). With approval of this ICR, the permitting and pretreatment control authority must require applicable facilities subject to subparts B or E to monitor their effluent for adsorbable organic halides (AOX), 2,3,7,8-tetrachlorodibenzo-p-dioxin (TCDD), 2,3,7,8-tetrachlorodibenzofuran (TCDF), chloroform, and 12 chlorinated phenolics at specified frequencies. See 40 CFR 430.02. Under 40 CFR 122.41 (e)(4), the discharger must then report these monitoring results to the permitting or pretreatment control authority using either Discharge Monitoring Reports (DMRs) or Periodic Compliance Reports (PCRs). These additional minimum monitoring requirements and corresponding additional reporting requirements are necessary to demonstrate compliance with the effluent limitations guidelines and standards promulgated at 40 CFR part 430, subparts B and E.

Burden Statement: The annual public reporting and recordkeeping burden for this collection of information is estimated to average 392 hours per response. The estimated number of respondents is 94 and the frequency of response is not less than annually for direct dischargers and not less than twice annually for indirect dischargers. The total annual hour burden is 36,858 hours and the total annualized cost burden (non labor costs) is $6,414,910.

(4) Baseline Standards and Best Management Practices for the Coal Mining Point Category (40 CFR part 434)—Coal Remining Sub-category and Western Alkaline Coal Mining Subcategory, EPA ICR No. 1944.02, OMB Control No. 2040–0239, expiring on November 30, 2004.

Affected Entities: Entities potentially affected by this action are coal remining sites with pre-existing discharges; western alkaline coal mining sites with sediment control; and NPDES permit control authorities.

Abstract: This ICR presents estimates of the burden and costs to the regulated community (approximately 234 coal remining sites and 46 western alkaline surface coal mining sites) and NPDES permit control authorities for data collection and record keeping associated with modeling, BMP implementation, baseline monitoring, and performance monitoring requirements of the Coal

Mining Point Source—Coal Remining Subcategory and Western Alkaline Coal Mining Subcategory Effluent Limitations Guidelines (40 CFR 434.70 and 434.80).

Coal remining is the mining of surface mine lands, underground mine lands, and coal refuse piles that have been previously mined and abandoned. Acid mine drainage from abandoned coal mines is a significant problem in Appalachia, with approximately 1.1 million acres of abandoned coal mine lands and over 9,700 miles of streams polluted by acid mine drainage.

During the remining process, acid-forming materials are removed with the extraction of the coal, pollution abatement BMPs are implemented under applicable regulatory requirements, and the abandoned mine land is reclaimed. During remining, many of the problems associated with abandoned mine land, such as dangerous highwalls, vertical openings, and abandoned coal refuse piles can be corrected without using public funds.

The remining regulations include a requirement that the operator implement BMPs to demonstrate the potential to improve water quality. The site-specific BMPs will be incorporated into a pollution abatement plan. Data collection and record keeping requirements under this Subcategory will include baseline determination, annual monitoring and reporting for pre-existing discharges and a description of site-specific BMPs. In most cases, EPA believes that the BMP requirements for the pollution abatement plan will be satisfied by an approved SMCRA plan.

Western alkaline coal mines include surface and underground mining operations located in the interior western United States. EPA estimates that 46 mine sites will be affected by this subcategory, representing 2% of the total number of U.S. coal mines, but accounting for ⅓ of U.S. coal production.

The subcategory establishes non-numeric limitations on the amount of sediment that can be discharged from coal mine reclamation areas. In lieu of numeric standards, the mine operator must develop a site-specific sediment control plan for surface reclamation areas identifying BMP design, construction, and maintenance specifications and expected effectiveness. The operator will be required to demonstrate, using models accepted by the regulatory authority, that implementation of the BMPs will ensure that average annual sediment levels in drainage from reclamation areas would not exceed predicted natural background levels of sediment discharges at that site. Data collection and record keeping requirements under this Subcategory will include a description of site-specific sediment control BMPs and watershed model results. EPA believes that plans developed to comply with SMCRA requirements will usually fulfill the EPA requirements for sediment control plans.

EPA does not expect that any confidential business information or trade secrets will be required from coal mining operators as part of this ICR. If information submitted in conjunction with this ICR were to contain confidential business information, the respondent has the authority to request that the information be treated as confidential business information. All data so designated will be handled by EPA pursuant to 40 CFR part 2. This information will be maintained according to procedures outlined in EPA's Security Manual Part III, Chapter 9, dated August 9, 1976. Pursuant to section 308(b) of the CWA, effluent data may not be treated as confidential.

Burden Statement: The potential number of coal remining respondents is calculated based on the approximation that 78 permits per year may be issued. The duration of this ICR is three years and therefore the potential respondents over this time frame is (78 × 3) 234. The potential number of western alkaline surface mining respondents is estimated to be 46 for this subcategory. Although there are a total of 44 authorized NPDES states, the number of state NPDES authorities estimated to be impacted by the rule is 10. The initial burden for coal mining and remining sites under the rule is estimated at 1,890 hours and $314,538 for baseline determination monitoring at coal remining sites. The annual burden for coal mining and remining sites under the rule is estimated at 3,024 hours per year and $189,302 per year for annual monitoring at coal remining sites.

The initial burden for NPDES control authorities is estimated at 9,800 hours and $310,464 for review of SMCRA remining and reclamation plans (which include BMPs) and preparation of the NPDES permit. The annual burden for NPDES control authorities is estimated at 2,340 hours per year and $74,131 per year for review of annual monitoring data at coal remining sites.

Monitoring costs apply to the Coal Remining Subcategory only. The average annual monitoring costs for all respondents under this ICR is $294,148 ($314,538/3 + $189,302).

For the Coal Remining Subcategory, the public reporting burden is estimated to average 15.6 hours per respondent per year ((1,890 hours/3 years + 3,024 hours/year) / 234 coal remining sites). This estimate includes time for collecting and submitting baseline and annual monitoring results. For the Western Alkaline Coal Mining Subcategory, there is projected to be no additional public reporting burden.

(5) Information Collection Request for Cooling Water Intake Structures New Facility Final Rule, EPA ICR No. 1973.02, OMB Control No. 2040–0241, expiring on November 30, 2004.

Affected Entities: Entities affected by this action are new facilities that are point sources (*i.e.* subject to a NPDES permit) that use or propose to use a cooling water intake structure (CWIS), have at least one cooling water intake structure that uses at least 25 percent (measured on an average monthly basis) of the water withdrawn for cooling purposes, and have a design intake flow greater than two million gallons per day (MGD). Generally, facilities that meet these criteria fall into two major groups: new power producing facilities and new manufacturing facilities. Power producers affected by the final rule are likely to be both utility and nonutility power producers since they typically have large cooling water requirements. The EPA identified four categories of manufacturing facilities that tend to require large amounts of cooling water: paper and allied products, chemical and allied products, petroleum and coal products, and primary metals.

Abstract: The section 316(b) New Facility Rule requires the collection of information from new facilities that use a CWIS. Section 316(b) of the CWA requires that any standard established under section 301 or 306 of the CWA and applicable to a point source must require that the location, design, construction and capacity of CWISs at that facility reflect the best technology available (BTA) for minimizing adverse environmental impact. See 66 FR 65256. Such impact occurs as a result of impingement (where fish and other aquatic life are trapped on technologies at the entrance to cooling water intake structures) and entrainment (where aquatic organisms, eggs, and larvae are taken into the cooling system, passed through the heat exchanger, and then pumped back out with the discharge from the facility). The rule establishes standard requirements applicable to the location, design, construction, and capacity of cooling water intake structures at new facilities. These requirements seek to minimize the adverse environmental impact associated with the use of CWISs.

Burden Statement: The annual average reporting and recordkeeping burden for the collection of information by facilities responding to the section 316(b) New Facility Rule is estimated to be 2,650 hours per respondent (*i.e.*, an annual average of 37,104 hours of burden divided among an anticipated annual average of 14 facilities). The Director reporting and recordkeeping burden for the review, oversight, and administration of the rule is estimated to average 136 hours per respondent (*i.e.*, an annual average of 3,271 hours of burden divided among an anticipated 24 States on average per year). During the first three years after rule promulgation, the information collection required by the rule involves responses from an estimated total of 18 facilities and 44 States and Territories and costs approximately $11.6 million (including operation and maintenance costs), with an annual average of 38 respondents, 40,376 burden hours, and $3.9 million per year.

(6) Certification in lieu of Chloroform Minimum Monitoring Requirements for direct and indirect discharging mills in the bleached papergrade kraft and soda subcategory of the pulp, Paper, Paperboard Point Source Category, EPA ICR No. 2015.01, OMB Control No. 2040–0242, expiring on February 28, 2005.

Affected Entities: Operations that chemically pulp wood fiber using kraft or soda methods to produce bleached papergrade pulp, paperboard, coarse paper, tissue paper, fine paper, and/or paperboard.

Abstract: The EPA imposed minimum monitoring requirements on bleached papergrade kraft and soda (subpart B) mills under 40 CFR part 430 as part of the final Cluster Rules promulgated on April 15, 1998. See 63 FR 18504. These provisions require direct and indirect discharging subpart B mills to monitor their effluent for certain pollutants, including chloroform, at specified frequencies. See 40 CFR 430.02. EPA promulgated an amendment to the Cluster Rules to allow direct and indirect discharging Subpart B mills, for a particular fiber line, to demonstrate compliance with applicable chloroform limitations and standards under 40 CFR part 430 in lieu of the minimum monitoring requirements specified in 40 CFR 430.02 by voluntarily certifying two sets of circumstances. See 67 FR 58990. First, the mill would need to certify that the fiber line(s) in question is/are not using elemental chlorine or hypochlorite as bleaching agents. Second, the mill would need to certify that the fiber line(s) in question maintain(s) certain process and operating conditions that the facility has demonstrated achieve compliance with applicable chloroform limitations.

The burden associated with these additional voluntary reporting requirements is expected to be offset by a substantial savings in burden and costs that would otherwise be incurred, pursuant to the minimum monitoring frequency and duration at 40 CFR 430.02, to comply with applicable chloroform effluent limitations and standards.

All data submitted by mills as part of the initial compliance demonstration and claimed as confidential business information would be maintained pursuant to 40 CFR part 2 when EPA is the permitting authority, and pursuant to regulations governing such information when States are the permitting authorities.

Burden Statement: The annual public reporting and recordkeeping burden for this voluntary collection of information is estimated to average six hours per response. The estimated number of respondents is 80 and the frequency of response is not less than annually for direct dischargers and not less than twice annually for indirect dischargers. The total annual hour burden is 480 hours and the total annualized cost burden (non-labor costs) is $0.

(7) Pollution Prevention Compliance Alternative; Transportation Equipment Cleaning (TEC) Point Source Category (40 CFR part 442), EPA ICR No. 2018.01, OMB Control No. 2040–0235, expiring on October 31, 2004.

Affected Entities: Entities potentially affected are indirect discharge facilities from subparts A and B (facilities that clean tank trucks, intermodal tank containers, and rail tank cars transporting chemical and petroleum cargos), that choose the pollution prevention compliance option to reduce pollutant discharges.

Abstract: EPA issued a final guideline for the TEC point source category on August 14, 2000. This final rule included a regulatory compliance option which allows certain facilities to develop a Pollutant Management Plan (PMP) in lieu of meeting numeric standards. Facilities have the option to develop this plan if it would be a more beneficial compliance alternative. The PMP is only available for PSES and PSNS in subparts A and B of the TEC regulation, representing a potential 316 facilities.

The PMP includes requirements for recordkeeping and paperwork that were not previously included in the burden estimate for the TEC industry. This ICR presents estimates of the burden hours and costs to the regulated community and pretreatment authorities for data collection and recordkeeping associated with implementing the pollution prevention compliance option.

The PMP is an effective alternative method of reducing pollutant discharges from indirect dischargers in subparts A and B (facilities that clean tank trucks, intermodal tank containers, and rail tank cars transporting chemical and petroleum cargos). The PMP contains 10 components that must be considered and addressed when developing the Plan. These components require facilities to identify and segregate incompatible waste streams which may include heels, prerinse or prestream wastewater, and spent cleaning solutions from wastewater discharged to the POTW. The PMP also requires provisions for recycling or reuse of incompatible waste streams and for minimizing the use of toxic cleaning agents. Data collection and recordkeeping requirements under the pollution prevention compliance option include preparing the PMP and maintaining records to demonstrate compliance with the procedures and provisions of the PMP. Records will be stored on site, and there are no reporting requirements.

Burden Statement: The regulated community includes approximately 316 indirect discharging facilities. EPA assumes that all regulated facilities will evaluate the alternative pollution prevention compliance option to determine whether it would be less costly than complying with numerical limits. Based on discussions with industry stakeholders and pretreatment authorities, EPA assumes that 25% of these facilities will select the pollution prevention compliance option.

For the TEC pollution prevention compliance option, the burden is estimated to average 240.3 hours per respondent per year. This estimate includes time for preparing and submitting the statement of intent, preparing and submitting the PMP, collecting information and recordkeeping, and operator training. The estimated total labor for respondents is 19,144 hours, with a total cost of $554,451.

Dated: August 20, 2004.

James A. Hanlon,

Director, Office of Wastewater Management.

[FR Doc. 04–19716 Filed 8–27–04; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–7807–7]

Notice of Disclosure of Confidential Business Information Obtained Under the Comprehensive Environmental Response, Compensation and Liability Act to EPA Contractor Science Applications International Corporation and Its Subcontractors

AGENCY: Environmental Protection Agency.

ACTION: Notice, request for comment.

SUMMARY: The Environmental Protection Agency ("EPA") hereby complies with the requirements of 40 CFR 2.310(h) for authorization to disclose to the Science Applications International Corporation ("SAIC"), of Oakland, California, and its subcontractors, Superfund confidential business information ("CBI") submitted to EPA Region 9.

DATES: Comments may be submitted by September 14, 2004.

ADDRESSES: Comments should be sent to: Environmental Protection Agency, Region 9, Peggy DeLaTorre (PMD–8), 75 Hawthorne Street, San Francisco, CA 94105.

FOR FURTHER INFORMATION CONTACT: Peggy DeLaTorre, Policy & Management Division, Environmental Protection Agency, Region 9, 75 Hawthorne Street, San Francisco, CA 94105, (415) 972–3717.

Notice of Required Determinations, Contract Provisions, and Opportunity to Comment: The Comprehensive Environmental Response, Compensation, and Liability Act of 1980 ("CERCLA") as amended (commonly known as "Superfund"), requires completion of enforcement activities at Superfund sites in concert with other site events. EPA has entered into a contract, No. GS–10F–0076J, delivery order No. 0906, with SAIC for Superfund Enforcement Support ("SES–2"). These services will be provided to EPA by SAIC and its subcontractors: 2nd Shift Lift Services of Lakewood, CA; Jonas and Associates, Inc. of Martinez, CA; Mobile Mini Inc. of Rialto, CA; PPC Land Consultants, Inc. of Dixon, CA; McDonald Associates of Seiad Valley, CA. EPA has determined that disclosure of CBI to SAIC employees, and its subcontractors' employees, is necessary in order that SAIC may carry out the work required by that contract with EPA. The information EPA intends to disclose includes submissions made by Potentially Responsible Parties to EPA in accordance with EPA's enforcement activities at Superfund sites. The information would be disclosed to the contractor and its subcontractor for any of the following reasons: to assist with document handling, inventory, and indexing; to assist with document review and analysis; to verify completeness; and to provide technical review of submittals. The contract complies with all requirements of 40 CFR 2.310(h)(2). EPA Region 9 will require that each SAIC employee and subcontractor employee sign a written agreement that he or she: (1) Will use the information only for the purpose of carrying out the work required by the contract, (2) shall refrain from disclosing the information to anyone other than EPA without prior written approval of each affected business or of an EPA legal office, and (3) shall return to EPA all copies of the information (and any abstracts or extracts therefrom) upon request from the EPA program office, whenever the information is no longer required by SAIC and its subcontractors for performance of the work required by the contract or upon completion of the contract or subcontract.

Dated: August 19, 2004.

Keith Takata,

Director, Superfund Division, EPA Region 9.

[FR Doc. 04–19718 Filed 8–27–04; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[OPP–2003–0401; FRL–7341–4]

Oxadiazon; Availability of Reregistration Eligibility Decision Document for Comment

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces availability and starts a 60–day public comment period on the Reregistration Eligibility Decision (RED) document for the herbicide active ingredient oxadiazon. The RED represents EPA's formal regulatory assessment of the human health and environmental data base of the subject chemical and presents the Agency's determination regarding which herbicidal uses are eligible for reregistration. Oxadiazon is registered for pre-emergent herbicide treatment of turf and ornamentals.

DATES: Comments, identified by docket ID number OPP–2003–0401, must be received on or before October 29, 2004.

ADDRESSES: Comments may be submitted electronically, by mail, or through hand delivery/courier. Follow the detailed instructions as provided in Unit I. of the **SUPPLEMENTARY INFORMATION.**

FOR FURTHER INFORMATION CONTACT: Mark Seaton, Special Review and Reregistration Division (7508C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001; telephone number: (703) 306–0469; e-mail address:*seaton.mark@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

This action is directed to the public in general. This action may, however, be of interest to persons who are or may be required to conduct testing of chemical substances under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) or the Federal Food, Drug, and Cosmetic Act (FFDCA); environmental, human health, and agricultural advocates; pesticides users; and members of the public interested in the use of pesticides. Since other entities may also be interested, the Agency has not attempted to describe all the specific entities that may be affected by this action. If you have any questions regarding the applicability of this action to a particular entity, consult the person listed under **FOR FURTHER INFORMATION CONTACT.**

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

1. *Docket.* EPA has established an official public docket for this action under docket ID number OPP–2003–0401. The official public docket consists of the documents specifically referenced in this action, any public comments received, and other information related to this action. Although, a part of the official docket, the public docket does not include Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. The official public docket is the collection of materials that is available for public viewing at the Public Information and Records Integrity Branch (PIRIB), Rm. 119, Crystal Mall #2, 1921 Jefferson Davis Hwy., Arlington, VA. This 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.

2. *Electronic access.* You may access this **Federal Register** document electronically through the EPA Internet under the "**Federal Register**" listings at

http://www.epa.gov/fedrgstr/. To access the RED document and RED fact sheet electronically, go directly to the REDs table on the EPA Office of Pesticide Programs Home Page, at *http://www.epa.gov/pesticides/reregistration/status.htm*.

An electronic version of the public docket is available through EPA's electronic public docket and comment system, EPA Dockets. You may use EPA Dockets at *http://www.epa.gov/edocket/* to submit or view public comments, access the index listing of the contents of the official public docket, and to access those documents in the public docket that are available electronically. Once in the system, select "search," then key in the appropriate docket ID number.

Certain types of information will not be placed in the EPA Dockets. Information claimed as CBI and other information whose disclosure is restricted by statute, which is not included in the official public docket, will not be available for public viewing in EPA's electronic public docket. EPA's policy is that copyrighted material will not be placed in EPA's electronic public docket but will be available only in printed, paper form in the official public docket. To the extent feasible, publicly available docket materials will be made available in EPA's electronic public docket. When a document is selected from the index list in EPA Dockets, the system will identify whether the document is available for viewing in EPA's electronic public docket. Although, not all docket materials may be available electronically, you may still access any of the publicly available docket materials through the docket facility identified in Unit I.B.1. EPA intends to work towards providing electronic access to all of the publicly available docket materials through EPA's electronic public docket.

For public commenters, it is important to note that EPA's policy is that public comments, whether submitted electronically or on paper, will be made available for public viewing in EPA's electronic public docket as EPA receives them, and without change, unless the comment contains copyrighted material, CBI, or other information whose 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 EPA's electronic public docket. The entire printed comment, including the copyrighted material, will be available in the public docket.

Public comments submitted on computer disks that are mailed or delivered to the docket will be transferred to EPA's electronic public docket. Public comments that are mailed or delivered to the docket will be scanned and placed in EPA's electronic public docket. Where practical, physical objects will be photographed, and the photograph will be placed in EPA's electronic public docket along with a brief description written by the docket staff.

C. How and to Whom Do I Submit Comments?

You may submit comments electronically, by mail, or through hand delivery/courier. To ensure proper receipt by EPA, identify the appropriate docket ID number in the subject line on the first page of your comment. Please ensure that your comments are submitted within the specified comment period. Comments received after the close of the comment period will be marked "late." EPA is not required to consider these late comments. If you wish to submit CBI or information that is otherwise protected by statute, please follow the instructions in Unit I.D. Do not use EPA Dockets or e-mail to submit CBI or information protected by statute.

1. *Electronically.* If you submit an electronic comment as prescribed in this unit, EPA recommends that you include your name, mailing address, and an e-mail address or other contact information in the body of your comment. Also, include this contact information on the outside of any disk or CD ROM you submit, and in any cover letter accompanying the disk or CD ROM. This ensures that you can be identified as the submitter of the comment and allows EPA to contact you in case EPA cannot read your comment due to technical difficulties or needs further information on the substance of your comment. EPA's policy is that EPA will not edit your comment, and any identifying or contact information provided in the body of a comment will be included as part of the comment that is placed in the official public docket, and made available in EPA's electronic public docket. 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.

i. *EPA Dockets.* Your use of EPA's electronic public docket to submit comments to EPA electronically is EPA's preferred method for receiving comments. Go directly to EPA Dockets at *http://www.epa.gov/edocket/*, and follow the online instructions for submitting comments. Once in the system, select "search," and then key in docket ID number OPP–2003–0401. The system is an "anonymous access" system, which means EPA will not know your identity, e-mail address, or other contact information unless you provide it in the body of your comment.

ii. *E-mail.* Comments may be sent by e-mail to *opp-docket@epa.gov*, Attention: Docket ID number OPP–2003–0401. In contrast to EPA's electronic public docket, EPA's e-mail system is not an "anonymous access" system. If you send an e-mail comment directly to the docket without going through EPA's electronic public docket, EPA's e-mail system automatically captures your e-mail address. E-mail addresses that are automatically captured by EPA's e-mail system are included as part of the comment that is placed in the official public docket, and made available in EPA's electronic public docket.

iii. *Disk or CD ROM.* You may submit comments on a disk or CD ROM that you mail to the mailing address identified in Unit I.C.2. These electronic submissions will be accepted in WordPerfect or ASCII file format. Avoid the use of special characters and any form of encryption.

2. *By mail.* Send your comments to: Public Information and Records Integrity Branch (PIRIB) (7502C), Office of Pesticide Programs (OPP), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001, Attention: Docket ID number OPP–2003–0401.

3. *By hand delivery or courier.* Deliver your comments to: Public Information and Records Integrity Branch (PIRIB), Office of Pesticide Programs (OPP), Environmental Protection Agency, Rm. 119, Crystal Mall #2, 1921 Jefferson Davis Hwy., Arlington, VA, Attention: Docket ID number OPP–2003–0401. Such deliveries are only accepted during the docket's normal hours of operation as identified in Unit I.B.1.

D. How Should I Submit CBI to the Agency?

Do not submit information that you consider to be CBI electronically through EPA's electronic public docket or by e-mail. You may claim information that you submit to EPA as CBI by marking any part or all of that information as CBI (if you submit CBI on disk or CD ROM, 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 CBI). Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2.

In addition to one complete version of the comment that includes any 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 and EPA's electronic public docket. If you submit the copy that does not contain CBI on disk or CD ROM, mark the outside of the disk or CD ROM clearly that it does not contain CBI. Information not marked as CBI will be included in the public docket and EPA's electronic public docket without prior notice. If you have any questions about CBI or the procedures for claiming CBI, please consult the person listed under **FOR FURTHER INFORMATION CONTACT.**

E. What Should I Consider as 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.
2. Describe any assumptions that you used.
3. Provide copies of any technical information and/or data you used that support your views.
4. If you estimate potential burden or costs, explain how you arrived at the estimate that you provide.
5. Provide specific examples to illustrate your concerns.
6. Offer alternative ways to improve the notice or collection activity.
7. Make sure to submit your comments by the deadline in this document.
8. To ensure proper receipt by EPA, be sure to identify the docket ID number assigned to this action in the subject line on the first page of your response. You may also provide the name, date, and **Federal Register**citation.

II. Background

A. What Action is the Agency Taking?

The Agency has issued the Reregistration Eligibility Decision (RED) for the herbicide active ingredient oxadiazon. Oxadiazon is registered for pre-emergent herbicide treatment of turf and ornamentals. The oxadiazon risk mitigation included rate reductions and packaging requirements. In addition, aerial applications have been eliminated.

Under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended in 1988, EPA is conducting an accelerated reregistration program to reevaluate existing pesticides to make sure they meet current scientific and regulatory standards. The data base to support the reregistration of the chemical listed in this document is substantially complete, and the pesticide's risks have been mitigated so that it will not pose unreasonable risks to people or the environment when used according to its approved labeling.

All registrants of pesticide products containing the active ingredient listed in this document will be sent the RED, and must respond to labeling requirements and product-specific data requirements (if applicable) within 8 months of receipt. Products also containing other pesticide active ingredients will not be reregistered until those other active ingredients are determined to be eligible for reregistration.

The reregistration program is being conducted under Congressionally mandated time frames, and EPA recognizes both the need to make timely reregistration decisions and to involve the public. Therefore, EPA is issuing this RED as a final document with a 60–day comment period. Although, the 60–day public comment period does not affect the registrant's response due date, it is intended to provide an opportunity for public input and a mechanism for initiating any necessary amendments to the RED. If any comment significantly affects the RED, EPA will amend the RED by publishing the amendment in the **Federal Register.**

B. What is the Agency's Authority for Taking this Action?

The legal authority for the RED falls under FIFRA, as amended in 1988 and 1996. Section 4(g)(2)(A) of FIFRA directs that, after submission of all data concerning a pesticide active ingredient, "the Administrator shall determine whether pesticides containing such active ingredient are eligible for reregistration," before calling in product-specific data on individual end-use products, and either reregistering products or taking "other appropriate regulatory action."

List of Subjects

Environmental protection, Chemicals, Pesticides and pests.

Dated: August 14, 2004.

Debra Edwards,

Director, Special Review and Reregistration Division, Office of Pesticide Programs.

[FR Doc. 04–19711 Filed 8–27–04; 8:45 am]

BILLING CODE 6560–50–S

ENVIRONMENTAL PROTECTION AGENCY

[OPP–2004–0291; FRL–7676–8]

Pyraclostrobin; Notice of Filing a Pesticide Petition to Increase a Tolerance for a Certain Pesticide Chemical in or on Food

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces the initial filing of a pesticide petition proposing the establishment of regulations for residues of a certain pesticide chemical in or on various food commodities.

DATES: Comments, identified by docket identification (ID) number OPP–2004–0291, must be received on or before September 29, 2004.

ADDRESSES: Comments may be submitted electronically, by mail, or through hand delivery/courier. Follow the detailed instructions as provided in Unit I. of the **SUPPLEMENTARY INFORMATION.**

FOR FURTHER INFORMATION CONTACT: Cynthia Giles-Parker, Registration Division (7505C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001; telephone number: (703) 305–7740; e-mail address: *giles-parker.cynthia@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 111)
- Animal production (NAICS 112)
- Food manufacturing (NAICS 311)
- Pesticide manufacturing (NAICS 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 Get Copies of this Document and Other Related Information?

1. *Docket.* EPA has established an official public docket for this action under docket ID number OPP–2004–0291. The official public docket consists of the documents specifically referenced in this action, any public comments received, and other information related to this action. Although a part of the official docket, the public docket does not include Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. The official public docket is the collection of materials that is available for public viewing at the Public Information and Records Integrity Branch (PIRIB), Rm. 119, Crystal Mall #2, 1801 S. Bell St., Arlington, VA. This 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.

2. *Electronic access.* You may access this **Federal Register** document electronically through the EPA Internet under the "**Federal Register**" listings at *http://www.epa.gov/fedrgstr/.*

An electronic version of the public docket is available through EPA's electronic public docket and comment system, EPA Dockets. You may use EPA Dockets at *http://www.epa.gov/edocket/* to submit or view public comments, access the index listing of the contents of the official public docket, and to access those documents in the public docket that are available electronically. Although not all docket materials may be available electronically, you may still access any of the publicly available docket materials through the docket facility identified in Unit I.B.1. Once in the system, select "search," then key in the appropriate docket ID number.

Certain types of information will not be placed in the EPA Dockets. Information claimed as CBI and other information whose disclosure is restricted by statute, which is not included in the official public docket, will not be available for public viewing in EPA's electronic public docket. EPA's policy is that copyrighted material will not be placed in EPA's electronic public docket but will be available only in printed, paper form in the official public docket. To the extent feasible, publicly available docket materials will be made available in EPA's electronic public docket. When a document is selected from the index list in EPA Dockets, the system will identify whether the document is available for viewing in EPA's electronic public docket. Although not all docket materials may be available electronically, you may still access any of the publicly available docket materials through the docket facility identified in Unit I.B. EPA intends to work towards providing electronic access to all of the publicly available docket materials through EPA's electronic public docket.

For public commentors, it is important to note that EPA's policy is that public comments, whether submitted electronically or in paper, will be made available for public viewing in EPA's electronic public docket as EPA receives them and without change, unless the comment contains copyrighted material, CBI, or other information whose 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 EPA's electronic public docket. The entire printed comment, including the copyrighted material, will be available in the public docket.

Public comments submitted on computer disks that are mailed or delivered to the docket will be transferred to EPA's electronic public docket. Public comments that are mailed or delivered to the docket will be scanned and placed in EPA's electronic public docket. Where practical, physical objects will be photographed, and the photograph will be placed in EPA's electronic public docket along with a brief description written by the docket staff.

C. How and To Whom Do I Submit Comments?

You may submit comments electronically, by mail, or through hand delivery/courier. To ensure proper receipt by EPA, identify the appropriate docket ID number in the subject line on the first page of your comment. Please ensure that your comments are submitted within the specified comment period. Comments received after the close of the comment period will be marked "late." EPA is not required to consider these late comments. If you wish to submit CBI or information that is otherwise protected by statute, please follow the instructions in Unit I.D. Do not use EPA Dockets or e-mail to submit CBI or information protected by statute.

1. *Electronically.* If you submit an electronic comment as prescribed in this unit, EPA recommends that you include your name, mailing address, and an e-mail address or other contact information in the body of your comment. Also include this contact information on the outside of any disk or CD ROM you submit, and in any cover letter accompanying the disk or CD ROM. This ensures that you can be identified as the submitter of the comment and allows EPA to contact you in case EPA cannot read your comment due to technical difficulties or needs further information on the substance of your comment. EPA's policy is that EPA will not edit your comment, and any identifying or contact information provided in the body of a comment will be included as part of the comment that is placed in the official public docket, and made available in EPA's electronic public docket. 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.

i. *EPA Dockets.* Your use of EPA's electronic public docket to submit comments to EPA electronically is EPA's preferred method for receiving comments. Go directly to EPA Dockets at *http://www.epa.gov/edocket/*, and follow the online instructions for submitting comments. Once in the system, select "search," and then key in docket ID number OPP–2004–0291. The system is an "anonymous access" system, which means EPA will not know your identity, e-mail address, or other contact information unless you provide it in the body of your comment.

ii. *E-mail.* Comments may be sent by e-mail to *opp-docket@epa.gov*, Attention: Docket ID Number OPP–2004–0291. In contrast to EPA's electronic public docket, EPA's e-mail system is not an "anonymous access" system. If you send an e-mail comment directly to the docket without going through EPA's electronic public docket, EPA's e-mail system automatically captures your e-mail address. E-mail addresses that are automatically captured by EPA's e-mail system are included as part of the comment that is placed in the official public docket, and made available in EPA's electronic public docket.

iii. *Disk or CD ROM.* You may submit comments on a disk or CD ROM that you mail to the mailing address identified in Unit I.C.2. These electronic submissions will be accepted in WordPerfect or ASCII file format. Avoid the use of special characters and any form of encryption.

2. *By mail.* Send your comments to: Public Information and Records Integrity Branch (PIRIB) (7502C), Office of Pesticide Programs (OPP), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001, Attention: Docket ID Number OPP–2004–0291.

3. *By hand delivery or courier.* Deliver your comments to: Public Information

and Records Integrity Branch (PIRIB), Office of Pesticide Programs (OPP), Environmental Protection Agency, Rm. 119, Crystal Mall #2, 1801 S. Bell St., Arlington, VA, Attention: Docket ID Number OPP–2004–0291. Such deliveries are only accepted during the docket's normal hours of operation as identified in Unit I.B.1.

D. How Should I Submit CBI to the Agency?

Do not submit information that you consider to be CBI electronically through EPA's electronic public docket or by e-mail. You may claim information that you submit to EPA as CBI by marking any part or all of that information as CBI (if you submit CBI on disk or CD ROM, 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 CBI). Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2.

In addition to one complete version of the comment that includes any 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 and EPA's electronic public docket. If you submit the copy that does not contain CBI on disk or CD ROM, mark the outside of the disk or CD ROM clearly that it does not contain CBI. Information not marked as CBI will be included in the public docket and EPA's electronic public docket without prior notice. If you have any questions about CBI or the procedures for claiming CBI, please consult the person listed under **FOR FURTHER INFORMATION CONTACT.**

E. What Should I Consider as 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.
2. Describe any assumptions that you used.
3. Provide copies of any technical information and/or data you used that support your views.
4. If you estimate potential burden or costs, explain how you arrived at the estimate that you provide.
5. Provide specific examples to illustrate your concerns.
6. Make sure to submit your comments by the deadline in this notice.
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.

II. What Action is the Agency Taking?

EPA has received a pesticide petition as follows proposing the establishment and/or amendment of regulations for residues of a certain pesticide chemical in or on various food commodities under section 408 of the Federal Food, Drug, and Cosmetic Act (FFDCA), 21 U.S.C. 346a. EPA has determined that this petition contains data or information regarding theelements set forth in section 408(d)(2) of the FFDCA; however, EPA has not fully evaluated the sufficiency of the submitted data at this time or whether the data support granting of the petition. Additional data may be needed before EPA rules on the petition.

List of Subjects

Environmental protection, Agricultural commodities, Feed additives, Food additives, Pesticides and pests, Reporting and recordkeeping requirements.

Dated: August 24, 2004.

Lois Rossi,

Director, Registration Division, Office of Pesticide Programs.

Summary of Petition

The petitioner summary of the pesticide petition is printed below as required by section 408(d)(3) of the FFDCA. The summary of the petition was prepared by the petitioner and represents the view of the petitioner. The petition summary announces the availability of a description of the analytical methods available to EPA for the detection and measurement of the pesticide chemical residues or an explanation of why no such method is needed.

BASF Corporation

PP 4F6850

EPA has received a pesticide petition (4F6850) from BASF Corporation, Research Triangle Park, NC, proposing pursuant to section 408(d) of the FFDCA, 21 U.S.C 346a (d), to amend 40 CFR 180.582 by increasing the tolerance for the combined residues of the fungicide pyraclostrobin, (carbamic acid, [2-[[[1-(4-chlorophenyl)-1H-pyrazol-3-yl]oxy]methyl]phenyl]methoxy-, methyl ester) and its metabolite BF 500-3 (methyl-N-[[[1-(4-chlorophenyl) pyrazol-3-yl]oxy]o-tolyl] carbamate), expressed as parent compound, in strawberry to 1.5 parts per million (ppm). EPA has determined that the petition contains data or information regarding the elements set forth in section 408(d)(2) of the FFDCA; however, EPA has not fully evaluated the sufficiency of the submitted data at this time or whether the data support granting of this petition. Additional data may be needed before EPA rules on the petition.

A. Residue Chemistry

1. *Plant and animal metabolism.* Nature of the residue studies (OPPTS 860.1300) were conducted in grape, potato and wheat as representative crops in order to characterize the fate of pyraclostrobin in all crop matrices. Pyraclostrobin demonstrated a similar pathway and fate in all three crops. In all three crops the pyraclostrobin Residues of Concern (ROC) were characterized as parent (pyraclostrobin) and BAS 500-3 (methyl-N[[[1-(4-chlorophenyl) pyrazol-3yl]oxy]o-tolyl] carbamate). In hens the ROC were determined to be parent compound and a hydroxylated metabolite, BAS 500-16. In goats the ROC were determined to be parent and a hydroxylated metabolite, BAS 500-10.

2. *Analytical method.* In plants the method of analysis is aqueous organic solvent extraction, column clean up, and quantitation by LC/MS/MS. In animals the method of analysis involves base hydrolysis, organic extraction, column clean up, and quantitation by LC/MS/MS or derivatization (methylation) followed by quantitation by GC/MS.

3. *Magnitude of the residue.* Field trials were carried out in order to determine the magnitude of the residue in strawberry using the maximum label rate, the maximum number of applications, and the minimum pre-harvest interval.

B. Toxicological Profile

1. *Acute toxicology.* Based on available acute toxicity data pyraclostrobin and its formulated products do not pose acute toxicity risks. The acute toxicity studies place technical pyraclostrobin in toxicity category IV for acute oral, category III for acute dermal, and category IV for acute inhalation. Pyraclostrobin is category III for both eye and skin irritation, and it is not a dermal sensitizer. Two formulated end use products are proposed, an Emulsifiable Concentrate (EC) and an Extruded Granule (EG). The EC has an acute oral toxicity category of II, acute dermal of III, acute inhalation of IV, eye and skin irritation categories of II, and is not a dermal sensitizer. The EG has acute oral and dermal toxicity categories of III, acute inhalation of IV, eye irritation of

III, skin irritation of IV, and is not a dermal sensitizer.

2. *Genotoxicity*—i. Ames Test (one study of point mutation): Negative;

ii. *In vitro* CHO/HGPRT locus mammalian cell mutation assay (one study of point mutation): Negative;

iii. *In vitro* V79 cells CHO cytogenetic assay (one study of chromosome damage): Negative;

iv. *In vivo* mouse micronucleus (one study of chromosome damage): negative; and

v. *In vitro* rat hepatocyte (one study of DNA damage and repair): Negative. Pyraclostrobin has been tested in a total of 5 genetic toxicology assays consisting of *in vitro* and *in vivo* studies. It can be stated that pyraclostrobin did not show any mutagenic, clastogenic or other genotoxic activity when tested under the conditions of the studies mentioned above. Therefore, pyraclostrobin does not pose a genotoxic hazard to humans.

3. *Reproductive and developmental toxicity.* The reproductive and developmental toxicity of pyraclostrobin was investigated in a 2–generation rat reproduction study as well as in rat and rabbit teratology studies. There were no adverse effects on reproduction in the 2–generation study so the NOAEL is the highest dose tested (HDT) of 300 ppm (32.6 mg/kg bw/day (milligrams per kilogram bodyweight per day)). Parental and pup toxicity in the form of reduced bodyweight gain were observed at the HDT only. Therefore, the parental systemic and developmental toxicity NOAEL's are the same at 75 ppm (8.2 mg/kg bw/day).

No teratogenic effects were noted in either the rat or rabbit developmental studies. In the rat study, maternal toxicity observed at the mid and high doses consisted of decreased food consumption and body weight gain. Developmental changes noted at the high dose were increased incidences of dilated renal pelvis and cervical ribs with no cartilage. The maternal NOAEL was 10 mg/kg bw/day and the developmental NOAEL was 25 mg/kg bw/day.

In the rabbit teratology study, maternal toxicity observed at the mid and high doses consisted of decreased food consumption and body weight gain (severe at the high dose). An increased postimplantation loss was also observed at the mid and high doses due to an increase in early resorptions. In rabbits, these types of effects are often observed with significant stress on the mothers (as seen by the body weight gain decrease in this study) and are not indicative of frank developmental toxicity. The NOAEL for both maternal and developmental toxicity was 5 mg/kg bw/day.

4. *Subchronic toxicity.* The subchronic toxicity of pyraclostrobin was investigated in 90-day feeding studies with rats, mice, and dogs, and in a 28-day dermal administration study in rats. A 90-day neurotoxicity study in rats was also performed. Generally, mild toxicity was observed. At high dose levels in feeding studies, general findings in all three species were decreased food consumption and body weight gain and a thickening of the duodenum. Anemia occurred at high dose levels in both rats and mice with accompanying extramedullary hematopoiesis of the spleen in rats. In rats only, a finding of liver cell hypertrophy was indicative of a physiological response to the handling of the chemical. Overall, only mild toxicity was observed in oral subchronic testing. In the 28-day repeat dose dermal study, no systemic effects were noted up to the highest dose tested of 250 mg/kg bw/day. In a 90-day rat neurotoxicity study, a direct neurotoxic effect was not observed.

5. *Chronic toxicity.* Pyraclostrobin was administered to groups of 5 male and 5 female purebred Beagle dogs in the diet at concentrations of 0, 100, 200 and 400 ppm over a period of 12 months. Signs of toxicity were observed at the high dose. Diarrhea was observed throughout the study period for both sexes. High dose males and females initially lost weight and body weight gain was decreased for the entire study period for females. Hematological changes observed were an increase in white blood cells in males, and an increase in platelets in both sexes at the high dose. Clinical chemistry demonstrated a decrease in serum total protein, albumin, globulins and cholesterol in high dose animals of both sexes possibly due to the diarrhea and reduced nutritional status of the animals. The NOAEL was 200 ppm (ca. 5.5 mg/kg bw/day males; 5.4 mg/kg bw/day females).

In an oncogenicity study, pyraclostrobin was administered to groups of 50 male and 50 female Wistar rats at dietary concentrations of 0, 25, 75, and 200 ppm for 24 months. In a companion chronic toxicity study, 20 rats/sex were used at the same dose levels as in the oncogenicity study. A body weight gain depression of 10-11% in males and 14-22% in females with an accompanying decrease in food efficiency was observed at the high dose. The only other effect observed was a decrease in serum alkaline phosphatase in both sexes at the high dose and decreased alanine aminotransferase in high dose males. There was no evidence that pyraclostrobin produced a carcinogenic effect in rats. The NOAEL for the chronic rat and the cancer rat study is 75 ppm (ca. 3.4 mg/kg bw/day males; 4.6 mg/kg bw/day females).

Pyraclostrobin was administered to groups of 50 male and 50 female B6C3F1 mice at dietary concentrations of 0, 10, 30, 120 and 180 ppm (females only) for 18 months. Body weights were reduced at the highest doses tested in both males and females. At the high dose, body weight gain decreases of 27% in females and 29% in males with an accompanying decrease in food efficiency were observed. No other signs of toxicity were noted at any dose level. The NOAEL was found to be 120 ppm (ca. 20.5 mg/kg bw/day) for females and 30 ppm (ca. 4.1 mg/kg bw/day) for males. There was no evidence that pyraclostrobin produced a carcinogenic effect in mice.

6. *Animal metabolism.* In a rat metabolism study with pyraclostrobin, 10-13% of the administered dose was excreted in the urine and 74-91% in the feces within 48 hours. Excretion via bile was significant, accounting for 35-38% of the administered dose. By 120 hours after dosing, very little radioactivity remained in tissues. Pyraclostrobin was rapidly and almost completely metabolized. Very little unchanged parent was detected. The phase one biotransformation is characterized by N-demethoxylation, various hydroxylations, cleavage of the ether bond and further oxidation of the two resulting molecule parts. Conjugation of the formed hydroxyl groups by glucuronic acid or sulfate also occurred. In summary, pyraclostrobin is extensively metabolized and rapidly eliminated primarily via the bile, with no evidence of accumulation in tissues.

7. *Metabolite toxicology.* A comparison of the rat metabolism results with the plant metabolism/residue results indicates that toxicology studies performed with the parent pyraclostrobin are sufficient to cover dietary exposure. Plant residues are primarily the parent compound with a fraction (up to 10-20% at most) being the demethoxylated parent. This metabolite is referred to as BF 500-3 in the plant studies and as 500M07 in the rat study. This metabolite in the rat is the first step in the major biotransformation process leading to the majority of the metabolites determined in the major excretion pathway.

8. *Endocrine disruption and endocrine effects.* No specific tests have been conducted with pyraclostrobin to determine whether the chemical may

have an effect in humans that is similar to an effect produced by a naturally occurring estrogen or other endocrine effects. However, there were no significant findings in other relevant toxicity studies (i.e., subchronic and chronic toxicity, teratology, and multigeneration reproductive studies) which would suggest that pyraclostrobin produces endocrine related effects.

C. Aggregate Exposure

1. *Dietary exposure*—i. *Food.* Assessments were conducted to evaluate the potential risk due to chronic and acute dietary exposure of the U.S. population to residues of pyraclostrobin (BAS 500 F). This fungicide and its desmethoxy metabolite (BAS 500-3) were expressed as the parent compound (BAS 500 F). Tolerance values have previously been established for various cereals, vegetables, fruits, and animal products and are listed in the U.S. EPA final rule published in the **Federal Register** of September 27, 2002 (67 FR 60886; FRL–7200–7). This analysis included the current registered crops at the approved tolerance values with strawberry at the proposed tolerance of 1.5 ppm.

The acute and chronic dietary exposure estimates were based on established tolerance values (with strawberry at 1.5 ppm), default processing factors, 100% crop treated values, and consumption data from the USDA Continuing Survey of Food Intake by Individuals (CSFII 1994–1996, 1998) and the EPA Food Commodity Ingredient Database (FCID) using Exponent's Dietary Exposure Evaluation Module (DEEM-FCID) software.

Result exposure estimates were compared against the pyraclostrobin chronic Population Adjusted Dose (cPAD) and acute Population Adjusted Dose (aPAD) of 0.034 mg/kg bw/day and 0.3 mg/kg bw/day for the general population, respectively. For females of child bearing years (13-49 years old) the aPAD is 0.05 mg/kg bw/day. The EPA determined that the FQPA Safety Factor should be removed-that is, reduced to 1X for all exposure scenarios. Therefore, the acute Population Adjusted Dose (aPAD) and the chronic Population Adjusted Dose (cPAD) are the same as the aRfD (acute Reference Dose) and cRfD (chronic Reference Dose), respectively.

Results of the chronic dietary assessments are listed in Table 1. below. The estimated chronic dietary exposure from current registered crops plus strawberry at 1.5 ppm was less than 57% of the cPAD for all subpopulations. Additional refinements such as the use of anticipated residues, processing factors, and percent crop treated values would further reduce the estimated chronic dietary exposure.

TABLE 1.—CHRONIC DIETARY EXPOSURE ASSESSMENT FOR PYRACLOSTROBIN (BAS 500 F) CONSIDERING ALL CURRENTLY REGISTERED CROP USES AT THE APPROVED TOLERANCE VALUES AND STRAWBERRY AT THE PROPOSED TOLERANCE OF 1.5 PPM

Population Subgroups	Exposure Estimate[1] (mg/kg bw/day)	%cPAD[2]
U.S. Population	0.005574	16.4
All Infants	0.006406	18.8
1-2 years	0.01924	56.6
3-5 years	0.014254	41.9
1-6 years	0.015337	45.1
6-12 years	0.008168	24.0
13-19 years	0.004577	13.5
Females 13-49 years	0.004116	12.1
Adults 20-49 years	0.004086	12.0
Males 20+ years	0.00411	12.1
Adults 50+ years	0.004197	12.3

[1]Exposure estimates are based on tolerance values, default processing factors, and 100% crop treated values

[2]%cPAD = percent of chronic Population Adjusted Dose

The estimated acute dietary exposure (see Table 2.) for all currently registered crops, using the approved tolerance values, plus strawberry at the proposed tolerance of 1.5 ppm, was well below the Agency's level of concern (100% aPAD). The overall general population and the most sensitive subpopulation (females 13-49 years old) utilized <6 and <25% of the aPAD at the 95th percentile, respectively. Because the FQPA safety factor was reduced to 1X, the aPAD has the same percentage utilization as the aRfD. Additional refinements such as the use of anticipated residues, processing factors, and percent crop treated values would further reduce the estimated acute dietary exposure.

TABLE 2.—ACUTE DIETARY EXPOSURE ASSESSMENT FOR PYRACLOSTROBIN (BAS 500 F) CONSIDERING ALL CURRENTLY REGISTERED CROP USES AT THE APPROVED TOLERANCE VALUES AND STRAWBERRY AT THE PROPOSED TOLERANCE OF 1.5 PPM

Population Subgroups	95th Percentile Exposure Estimate[1] (mg/kg bw/day)	% aPAD[2]
U.S. Population	0.017127	5.7
All Infants	0.025157	8.4
1-2 years	0.051777	17.3
3-5 years	0.038115	12.7
1-6 years	0.04298	14.3
7-12 years	0.019884	6.6
13-19 years	0.013618	4.5
Females 13-49 years	0.012147	24.3
Adults 20-49 years	0.011916	4.0
Males 20+ years	0.011594	3.9
Adults 50+ years	0.011803	3.9

[1]Exposure estimates are based on tolerance values, default processing factors, and 100% crop treated values

[2]%aPAD = percent of chronic Population Adjusted Dose

ii. *Drinking water.* There are no established maximum contaminant levels or health advisory levels for residues of pyraclostrobin (BAS 500 F) or its metabolite in drinking water. A tier 1 drinking water modeling assessment for pyraclostrobin using the FIRST model (for surface water) and SCI-GROW model (for groundwater) produced estimated maximum concentrations of 20.4 ppb (acute surface water), 0.79 ppb (chronic surface water), and 0.009 ppb (acute and chronic groundwater). These estimated concentrations are less than worst-case calculated acceptable levels (DWLOC) of pyraclostrobin residues in drinking water based on acute and chronic aggregate exposure. Chronic and acute drinking water exposure estimates and DWLOCs for pyraclostrobin are presented in Tables 3. and 4., respectively.

TABLE 3.—PYRACLOSTROBIN (BAS 500 F) CHRONIC DRINKING WATER EXPOSURE ESTIMATES FOR ALL CURRENTLY REGISTERED CROP USES

Chronic DWLOC	Adults (20-49)	Females (13-49)	Children (1-6 years)	Infants (birth to 1)
No Effect Level	3.4	3.4	3.4	3.4
Safety Factor	100	100	100	100
RfD	0.034	0.034	0.034	0.034
cPAD	0.034	0.034	0.034	0.034
A: Chronic Food (mg/kg/day)	0.004086	0.004116	0.015337	0.006406
B: Residential (mg/kg/day)	0	0	0	0
Water cPAD (A + B)	0.029914	0.029884	0.018663	0.027594
Chronic DWLOC (µg/L)	1.0×10^3	9.0×10^2	3.0×10^2	3.0×10^2
DECs:				
FIRST (EFED) Surface water (µg/L)	0.79	0.79	0.79	0.79
SCI-GROW (EFED) Ground-water (µg/L)	0.009	0.009	0.009	0.009

TABLE 4.—PYRACLOSTROBIN (BAS 500 F) ACUTE DRINKING WATER EXPOSURE ESTIMATES FOR ALL CURRENTLY REGISTERED CROP USES

Acute DWLOC	Adults (20-49)	Females (13-49)	Children (1-6 years)	Infants (birth to 1)
No Effect Level	300	5	300	300
Safety Factor	100	100	100	100
RfD	3	0.05	3	3
aPAD	3	0.05	3	3
A: Acute Food[1] (mg/kg/day)	0.011916	0.012147	0.04298	0.025157
B: Residential (mg/kg/day)	0	0	0	0
Water aPAD (A + B)	2.988084	0.037853	2.95702	2.974843
Acute DWLOC (µg/L)	1.0×10^5	2.0×10^2	3.0×10^4	3.0×10^4
DECs:				
FIRST (EFED) Surface water (µg/L)	20.4	20.4	20.4	20.4
SCI-GROW (EFED) Ground-water (µg/L)	0.009	0.009	0.009	0.009

[1]95th percentile

iii. *Food plus water.* The food plus water exposure to pyraclostrobin residues is summarized in Table 5.

TABLE 5.— ESTIMATED DIETARY EXPOSURE TO PYRACLOSTROBIN RESIDUES FROM FOOD AND WATER CONSIDERING ALL CURRENTLY REGISTERED CROP USES AND FOOD RESIDUES AT THE APPROVED TOLERANCES AND STRAWBERRY AT THE PROPOSED TOLERANCE OF 1.5 PPM

Exposure	Infants (0-1 years)	Children (1-6 years)	Adults (20-49 years)	Females (13-49 years)
Food:				
Acute Exposure (mg/kg bw/day) ..	0.025157	0.04298	0.011916	0.012147
Chronic Exposure (mg/kg bw/day)	0.006406	0.015337	0.004086	0.004116
%aPAD	8.4	14.3	4.0	24.3
%cPAD	18.8	45.1	12.0	12.1
Water:				
Acute Exposure (mg/kg bw/day) ..	0.00204	0.001360	0.000583	0.000648
Chronic Exposure (mg/kg bw/day)	0.0000009	0.000001	0.000000	0.000000
%aPAD	0.680	0.453	0.194	1.295
%cPAD	0.003	0.002	0.001	0.001

TABLE 5.— ESTIMATED DIETARY EXPOSURE TO PYRACLOSTROBIN RESIDUES FROM FOOD AND WATER CONSIDERING ALL CURRENTLY REGISTERED CROP USES AND FOOD RESIDUES AT THE APPROVED TOLERANCES AND STRAWBERRY AT THE PROPOSED TOLERANCE OF 1.5 PPM—Continued

Exposure	Infants (0-1 years)	Children (1-6 years)	Adults (20-49 years)	Females (13-49 years)
Food + Water:				
Acute Exposure (mg/kg bw/day) ..	0.027197	0.044340	0.012499	0.012795
Chronic Exposure (mg/kg bw/day)	0.0064069	0.015338	0.004086	0.004116
%aPAD	9.07	14.78	4.17	25.59
%cPAD	18.84	45.11	12.02	12.11

These results indicate that dietary exposure to pyraclostrobin from potential residues in food and water will not exceed the U.S. EPA's level of concern (100% of PAD). Overall, we can conclude with reasonable certainty that no harm will occur from either acute or chronic dietary exposure to pyraclostrobin residues.

2. *Non-dietary exposure.* Pyraclostrobin is currently registered for use on golf course turf. The Agency has evaluated the existing toxicological database for pyraclostrobin and has assessed the appropriate toxicological endpoints and the dose levels of concern for this use. Dermal absorption data indicate that absorption is 14%.

D. Cumulative Effects

Section 408(b)(2)(D)(v) requires that, when considering whether to establish, modify, or revoke a tolerance, the Agency consider "available information" concerning the cumulative effects of a particular pesticide's residues and "other substances that have a common mechanism of toxicity." Pyraclostrobin is a foliar fungicide which belongs to the new class of strobilurin chemistry. It is a synthetic analog of strobilurin A, a naturally occurring antifungal metabolite of the mushroom Strobillurus tenacellus. The active ingredient acts in the fungal cell through inhibition of electron transport in the mitochondrial respiratory chain at the position of the cytochrome-bc1 complex. The protective effect is due to the resultant death of the fungal cells by disorganization of the fungal membrane system. Pyraclostrobin also acts curatively to prevent the increase and spread of fungal infections by inhibiting mycelial growth and sporulation on the leaf surface. BAS 500F inhibits spore germination, germ tube growth, and penetration into the host tissues.

The EPA is currently developing methodology to perform cumulative risk assessments. At this time, there are no available data to determine whether BAS 500F has a common mechanism of toxicity with other substances or to show how to include this pesticide in a cumulative risk assessment. Unlike other pesticides for which EPA has followed a cumulative risk approach based on a common mechanism of toxicity, pyraclostrobin does not appear to produce a toxic metabolite produced by other pesticides.

E. Safety Determination

1. *U.S. population.* Adding the proposed tolerance increase in strawberry to those crops already on the pyraclostrobin label, aggregate exposure to adults in the U.S. population utilized at most 67% of the aPAD and 40% of the cPAD. Therefore, no harm to the overall U.S. population would result from the use of pyraclostrobin in or on the existing label crops, including with the tolerance increase in strawberry.

2. *Infants and children.* All subpopulations based on age were considered. The highest potential exposure was predicted for children (1-6 years old). Using the FQPA Safety Factor of 3X when appropriate, the addition of the proposed strawberry tolerance increase to the tolerances for other crops that are on the label would use less than 1% of the aPAD and use 89% of the cPAD for children (1-6 years old). BASF concludes that there is reasonable certainty that no harm will result to infants or children from aggregate exposure to pyraclostrobin residues in or on the existing label crops, including with the tolerance increase in strawberry.

F. International Tolerances

Maximum Residue Levels (MRLs) have been established for pyraclostrobin in Canada but no MRLs have been established by the Codex Alimentarius Commission.

[FR Doc. 04–19713 Filed 8–27–04; 8:45 am]

BILLING CODE 6560–50–S

ENVIRONMENTAL PROTECTION AGENCY

[OPPT–2004–0110; FRL–7676–5]

Certain New Chemicals; Receipt and Status Information

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: Section 5 of the Toxic Substances Control Act (TSCA) requires any person who intends to manufacture (defined by statute to include import) a new chemical (i.e., a chemical not on the TSCA Inventory) to notify EPA and comply with the statutory provisions pertaining to the manufacture of new chemicals. Under sections 5(d)(2) and 5(d)(3) of TSC, EPA is required to publish a notice of receipt of a premanufacture notice (PMN) or an application for a test marketing exemption (TME), and to publish periodic status reports on the chemicals under review and the receipt of notices of commencement to manufacture those chemicals. This status report, which covers the period from July 13, 2004 to August 6, 2004, consists of the PMNs, pending or expired, and the notices of commencement to manufacture a new chemical that the Agency has received under TSCA section 5 during this time period.

DATES: Comments identified by the docket ID number OPPT–2004–0110 and the specific PMN number or TME number, must be received on or before September 29, 2004.

ADDRESSES: Comments may be submitted electronically, by mail, or through hand delivery/courier. Follow the detailed instructions as provided in Unit I. of the **SUPPLEMENTARY INFORMATION.**

FOR FURTHER INFORMATION CONTACT: Colby Lintner, Regulatory Coordinator, Environmental Assistance Division, Office of Pollution Prevention and Toxics (7408M), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001; telephone number: (202) 554–

1404; e-mail address: *TSCA-Hotline@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

This action is directed to the public in general. As such, the Agency has not attempted to describe the specific entities that this action may apply to. Although others may be affected, this action applies directly to the submitter of the premanufacture notices addressed in the action. If you have any questions regarding the applicability of this action to a particular entity, consult the person listed under **FOR FURTHER INFORMATION CONTACT.**

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

1. *Docket.* EPA has established an official public docket for this action under docket identification (ID) number OPPT–2004–0110. The official public docket consists of the documents specifically referenced in this action, any public comments received, and other information related to this action. Although a part of the official docket, the public docket does not include Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. The official public docket is the collection of materials that is available for public viewing at the EPA Docket Center, Rm. B102-Reading Room, EPA West, 1301 Constitution Ave., NW., Washington, DC. The EPA Docket Center is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The EPA Docket Center Reading Room telephone number is (202) 566–1744 and the telephone number for the OPPT Docket, which is located in EPA Docket Center, is (202) 566–0280.

2. *Electronic access.* You may access this **Federal Register** document electronically through the EPA Internet under the "**Federal Register**" listings at *http://www.epa.gov/fedrgstr/.*

An electronic version of the public docket is available through EPA's electronic public docket and comment system, EPA Dockets. You may use EPA Dockets at *http://www.epa.gov/edocket/* to submit or view public comments, access the index listing of the contents of the official public docket, and to access those documents in the public docket that are available electronically. Although not all docket materials may be available electronically, you may still access any of the publicly available docket materials through the docket facility identified in Unit I.B.1. Once in the system, select "search," then key in the appropriate docket ID number.

Certain types of information will not be placed in the EPA Dockets. Information claimed as CBI and other information whose disclosure is restricted by statute, which is not included in the official public docket, will not be available for public viewing in EPA's electronic public docket. EPA's policy is that copyrighted material will not be placed in EPA's electronic public docket but will be available only in printed, paper form in the official public docket. To the extent feasible, publicly available docket materials will be made available in EPA's electronic public docket. When a document is selected from the index list in EPA Dockets, the system will identify whether the document is available for viewing in EPA's electronic public docket. Although not all docket materials may be available electronically, you may still access any of the publicly available docket materials through the docket facility identified in Unit I.B.1. EPA intends to work towards providing electronic access to all of the publicly available docket materials through EPA's electronic public docket.

For public commenters, it is important to note that EPA's policy is that public comments, whether submitted electronically or in paper, will be made available for public viewing in EPA's electronic public docket as EPA receives them and without change, unless the comment contains copyrighted material, CBI, or other information whose 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 EPA's electronic public docket. The entire printed comment, including the copyrighted material, will be available in the public docket.

Public comments submitted on computer disks that are mailed or delivered to the docket will be transferred to EPA's electronic public docket. Public comments that are mailed or delivered to the docket will be scanned and placed in EPA's electronic public docket. Where practical, physical objects will be photographed, and the photograph will be placed in EPA's electronic public docket along with a brief description written by the docket staff.

C. How and To Whom Do I Submit Comments?

You may submit comments electronically, by mail, or through hand delivery/courier. To ensure proper receipt by EPA, identify the appropriate docket ID number and specific PMN number or TME number in the subject line on the first page of your comment. Please ensure that your comments are submitted within the specified comment period. Comments received after the close of the comment period will be marked "late." EPA is not required to consider these late comments. If you wish to submit CBI or information that is otherwise protected by statute, please follow the instructions in Unit I.D. Do not use EPA Dockets or e-mail to submit CBI or information protected by statute.

1. *Electronically.* If you submit an electronic comment as prescribed in this unit, EPA recommends that you include your name, mailing address, and an e-mail address or other contact information in the body of your comment. Also include this contact information on the outside of any disk or CD ROM you submit, and in any cover letter accompanying the disk or CD ROM. This ensures that you can be identified as the submitter of the comment and allows EPA to contact you in case EPA cannot read your comment due to technical difficulties or needs further information on the substance of your comment. EPA's policy is that EPA will not edit your comment, and any identifying or contact information provided in the body of a comment will be included as part of the comment that is placed in the official public docket, and made available in EPA's electronic public docket. 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.

i. *EPA Dockets.* Your use of EPA's electronic public docket to submit comments to EPA electronically is EPA's preferred method for receiving comments. Go directly to EPA Dockets at *http://www.epa.gov/edocket/*, and follow the online instructions for submitting comments. Once in the system, select "search," and then key in docket ID number OPPT–2004–0110. The system is an "anonymous access" system, which means EPA will not know your identity, e-mail address, or other contact information unless you provide it in the body of your comment.

ii. *E-mail.* Comments may be sent by e-mail to *oppt.ncic@epa.gov*, Attention: Docket ID Number OPPT–2004–0110 and PMN Number or TME Number. In contrast to EPA's electronic public docket, EPA's e-mail system is not an "anonymous access" system. If you send an e-mail comment directly to the docket without going through EPA's electronic public docket, EPA's e-mail system automatically captures your e-

mail address. E-mail addresses that are automatically captured by EPA's e-mail system are included as part of the comment that is placed in the official public docket, and made available in EPA's electronic public docket.

iii. *Disk or CD ROM.* You may submit comments on a disk or CD ROM that you mail to the mailing address identified in Unit I.C.2. These electronic submissions will be accepted in WordPerfect or ASCII file format. Avoid the use of special characters and any form of encryption.

2. *By mail.* Send your comments to: Document Control Office (7407M), Office of Pollution Prevention and Toxics (OPPT), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001.

3. *By hand delivery or courier.* Deliver your comments to: OPPT Document Control Office (DCO) in EPA East Bldg., Rm. 6428, 1201 Constitution Ave., NW., Washington, DC. Attention: Docket ID Number OPPT–20040110 and PMN Number or TME Number. The DCO is open from 8 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The telephone number for the DCO is (202) 564–8930.

D. How Should I Submit CBI to the Agency?

Do not submit information that you consider to be CBI electronically through EPA's electronic public docket or by e-mail. You may claim information that you submit to EPA as CBI by marking any part or all of that information as CBI (if you submit CBI on disk or CD ROM, 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 CBI). Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2.

In addition to one complete version of the comment that includes any 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 and EPA's electronic public docket. If you submit the copy that does not contain CBI on disk or CD ROM, mark the outside of the disk or CD ROM clearly that it does not contain CBI. Information not marked as CBI will be included in the public docket and EPA's electronic public docket without prior notice. If you have any questions about CBI or the procedures for claiming CBI, please consult the technical person listed under **FOR FURTHER INFORMATION CONTACT.**

E. What Should I Consider as 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.
2. Describe any assumptions that you used.
3. Provide copies of any technical information and/or data you used that support your views.
4. If you estimate potential burden or costs, explain how you arrived at the estimate that you provide.
5. Provide specific examples to illustrate your concerns.
6. Offer alternative ways to improve the notice or collection activity.
7. Make sure to submit your comments by the deadline in this document.
8. To ensure proper receipt by EPA, be sure to identify the docket ID number assigned to this action and the specific PMN number you are commenting on in the subject line on the first page of your response. You may also provide the name, date, and **Federal Register** citation.

II. Why is EPA Taking this Action?

Section 5 of TSCA requires any person who intends to manufacture (defined by statute to include import) a new chemical (i.e., a chemical not on the TSCA Inventory to notify EPA and comply with the statutory provisions pertaining to the manufacture of new chemicals. Under sections 5(d)(2) and 5(d)(3) of TSCA, EPA is required to publish a notice of receipt of a PMN or an application for a TME and to publish periodic status reports on the chemicals under review and the receipt of notices of commencement to manufacture those chemicals. This status report, which covers the period from July 13, 2004 to August 06, 2004, consists of the PMNs pending or expired, and the notices of commencement to manufacture a new chemical that the Agency has received under TSCA section 5 during this time period.

III. Receipt and Status Report for PMNs

This status report identifies the PMNs pending or expired, and the notices of commencement to manufacture a new chemical that the Agency has received under TSCA section 5 during this time period. If you are interested in information that is not included in the following tables, you may contact EPA as described in Unit II. to access additional non-CBI information that may be available.

In Table I of this unit, EPA provides the following information (to the extent that such information is not claimed as CBI) on the PMNs received by EPA during this period: the EPA case number assigned to the PMN; the date the PMN was received by EPA; the projected end date for EPA's review of the PMN; the submitting manufacturer; the potential uses identified by the manufacturer in the PMN; and the chemical identity.

I. 63 PREMANUFACTURE NOTICES RECEIVED FROM: 07/13/04 TO 08/06/04

Case No.	Received Date	Projected Notice End Date	Manufacturer/Importer	Use	Chemical
P–04–0729	07/13/04	10/10/04	CBI	(G) Use as a component of food packaging and other industrial uses.	(G) Modified sbs copolymer
P–04–0730	07/13/04	10/10/04	Arizona Chemical Company	(S) Tackifying resin for adhesive formulations	(S) Terpenes and terpenoids, turpentine-oil, 3-carene fraction, polymers with phenol
P–04–0731	07/13/04	10/10/04	Arizona Chemical Company	(S) Tackifying resin for adhesive formulations	(S) Terpenes and terpenoids, turpentine-oil, 3-carene fraction, polymers with phenol and turpentine-oil .alpha.-pinene fraction terpenes
P–04–0732	07/13/04	10/10/04	Arizona Chemical Company	(S) Tackifying resin for adhesive formulations	(S) Terpenes and terpenoids, turpentine-oil, 3-carene fraction, polymd

I. 63 PREMANUFACTURE NOTICES RECEIVED FROM: 07/13/04 TO 08/06/04—Continued

Case No.	Received Date	Projected Notice End Date	Manufacturer/Importer	Use	Chemical
P–04–0733	07/13/04	10/10/04	Arizona Chemical Company	(S) Tackifying resin for adhesive formulations	(S) Terpenes and terpenoids, turpentine-oil, 3-carene fraction, polymers with turpentine-oil .alpha.-pinene fraction terpenes
P–04–0734	07/13/04	10/10/04	Arizona Chemical Company	(S) Tackifying resin for adhesive formulations	(S) Terpenes and terpenoids, turpentine-oil, 3-carene fraction, polymers with turpentine-oil .beta.-pinene fraction terpenes
P–04–0735	07/13/04	10/10/04	CBI	(G) Insulation sizing	(G) Modified polycarboxylate
P–04–0736	07/13/04	10/10/04	CBI	(G) Insulation sizing	(G) Modified polycarboxylate
P–04–0737	07/13/04	10/10/04	CBI	(G) Insulation sizing	(G) Modified polycarboxylate
P–04–0738	07/13/04	10/10/04	CBI	(G) Insulation sizing	(G) Modified polycarboxylate
P–04–0739	07/13/04	10/10/04	CBI	(G) Insulation sizing	(G) Modified polycarboxylate
P–04–0740	07/13/04	10/10/04	CBI	(G) Insulation sizing	(G) Modified polycarboxylate
P–04–0741	07/13/04	10/10/04	Arizona Chemical Company	(S) Chemical intermediate in production of terpene phenol resins and polyterpene resins	(S) Terpenes and terpenoids, turpentine-oil, 3-carenefraction
P–04–0742	07/14/04	10/11/04	CBI	(G) A solid used in the printing industry; a solid used in the pharmaceutical industry	(G) Caprylic / capric glycerides
P–04–0743	07/15/04	10/12/04	CIBA Specialty Chemicals Corporation, Textile Effects	(S) A flame retardant for textile fabrics	(G) Substituted phosphonic acid compounded with substituted urea
P–04–0744	07/15/04	10/12/04	CBI	(G) Polymer for coatings	(G) Acrylate copolymer
P–04–0745	07/15/04	10/12/04	The Dow Chemical Company	(S) Adhesion promoter	(G) Organosilane ester
P–04–0746	07/15/04	10/12/04	The Dow Chemical Company	(S) Accelerator for use in adhesive	(G) Amino phenolic reaction product with polyvinylphenol
P–04–0747	07/14/04	10/11/04	CBI	(G) A liquid used in the printing process	(G) Propylene glycol diethylhexanoate
P–04–0748	07/14/04	10/11/04	CBI	(G) Plating agent	(G) Imidazolesilane
P–04–0749	07/15/04	10/12/04	NA Industries, Inc.	(G) Concrete additive	(G) Polycarboxylated derivertive
P–04–0750	07/15/04	10/12/04	NA Industries, Inc.	(G) Concrete additive	(G) Polycarboxylated derivertive
P–04–0751	07/16/04	10/13/04	CBI	(S) Spray-applied, low voc coatings for metal surfaces	(G) Alkanedioic acid, polymer with 2-ethyl-2-(hydroxymethyl)-1,3-propanediol, 1,3-isobenzofurandione and 2-methyl-1,3-propanediol, 2-hydroxy-3-[(1-oxoneodecyl)oxy]propyl ester
P–04–0752	07/16/04	10/13/04	CBI	(G) Fuel additive	(G) Organomodified siloxane and silicone
P–04–0753	07/16/04	10/13/04	CBI	(G) Laminating adhesive	(G) Polyurethane
P–04–0754	07/16/04	10/13/04	CBI	(G) Laminating adhesive	(G) Polyurethane
P–04–0755	07/16/04	10/13/04	CBI	(G) Laminating adhesive	(G) Polyurethane
P–04–0756	07/16/04	10/13/04	BASF Corporation	(S) Colorant in thermoplastics; colorant for ink jet printing inks	(G) Derivative of c.i. pigment yellow 138
P–04–0757	07/19/04	10/16/04	CBI	(S) Modified resin used as a component in a protective coating (paint)	(S) Hexanedioic acid, polymer with 1,4-cyclohexanedimethanol, 2-ethyl-2-(hydroxymethyl)-1,3-propanediol and hexahydro-1,3-isobenzofurandione, 3-mercaptopropanoate 3,5,5-trimethylhexanoate
P–04–0758	07/19/04	10/16/04	CBI	(G) Coating	(G) Blocked polymeric isocyanate
P–04–0759	07/21/04	10/18/04	Surface specialties, Inc.	(S) Chemical resistant paints	(G) Aliphatic polyamine
P–04–0760	07/21/04	10/18/04	CBI	(G) Polymer for coatings	(G) Acrylic polymer
P–04–0761	07/21/04	10/18/04	CBI	(S) Stabilizer for plastics	(G) Zinc and phosphorous containing compounds
P–04–0762	07/21/04	10/18/04	CBI	(G) Leather fat liquor	(G) Bisulfited natural oil rs
P–04–0763	07/22/04	10/19/04	CBI	(G) Polymer admixture for cements	(G) Polycarboxylate polymer with alkenyloxyalkylol modified poly(oxyalkylenediyl), calcium sodium salt
P–04–0764	07/22/04	10/19/04	CBI	(G) Polymer admixture for cements	(G) Polycarboxylate polymer with alkenyloxyalkylol modified poly(oxyalkylenediyl), sodium salt

I. 63 PREMANUFACTURE NOTICES RECEIVED FROM: 07/13/04 TO 08/06/04—Continued

Case No.	Received Date	Projected Notice End Date	Manufacturer/Importer	Use	Chemical
P–04–0765	07/19/04	10/16/04	Macdermid, Inc.	(G) Photocure polymer, open non-dispensive use	(G) Polyether diol, copolymer with toluene diisocyante, methacrylic acid ester-blocked
P–04–0766	07/23/04	10/20/04	Sud-Chemie, Inc.	(G) Water emulsified alkyd for use as a deck, wood, or concrete stain, which can be zero voc and yield good wood/concrete penetration primary markets would be architectural coatings	(G) Mineral/vegetable oil based alkyd
P–04–0767	07/26/04	10/23/04	Huntsman Petro-Chemical Corporation	(G) As a catalyst	(G) Substituted ammonium formate
P–04–0768	07/26/04	10/23/04	Clariant LSM (America) Inc.	(S) Raw material for pesticide intermediate	(G) Trihalosubstituted benzene
P–04–0769	07/26/04	10/23/04	CIBA Specialty Chemicals Corporation	(S) Rheology modifier for polymers	(G) Substituted methyl ester of octadecanoic acid
P–04–0770	07/27/04	10/24/04	American Ingredients Company	(S) Emulsifier in food products; industrial solvent, process-aid and lubricant	(G) Mixture of esters from the reaction of fatty acids with a short-chain hydroxy acid
P–04–0771	07/28/04	10/25/04	Clariant LSM (America) Inc.	(S) Active pesticide	(G) [(halo-alkoxy) aryl] alkyl](alkoxyaryl) (dialkyl) silane
P–04–0772	07/28/04	10/25/04	Clariant LSM (America) Inc.	(S) Pesticide intermediate	(G) (alkoxyaryl) [(dihaloaryl)alkyl] dialkylsilane
P–04–0773	07/28/04	10/25/04	Siltech LLC	(S) Additive for pulp deformers	(S) Siloxanes and silicones, 3-[3-(diethylmethylammonio)-2-hydroxypropoxyl]propyl me, di me, chlorides
P–04–0774	07/28/04	10/25/04	Clariant LSM (America) Inc.	(S) Pesticide intermediate	(G) [(dihaloaryl) alkyl] (dialkyl) halosilane
P–04–0775	07/28/04	10/25/04	Clariant LSM (America) Inc.	(S) Pesticide intermediate	(G) Halogen substituted alkylbenzene
P–04–0776	07/28/04	10/25/04	CBI	(S) Industrial intermediate	(G) Heteromonocyclo-beta-(2,4-dichlorophenyl)-1-propanol
P–04–0777	07/29/04	10/26/04	Synplex Chemical Imports LLC	(G) Silicone-modified alkyd resin	(S) Silsesquioxanes, ph pr, polymers with pentaerythritol, phthalic anhydride, soybean oil and trimethylolethane
P–04–0778	07/29/04	10/26/04	The Sherwin Williams Company	(G) Open, non-dispersive use	(G) Polyester
P–04–0779	07/29/04	10/26/04	CBI	(S) Roof coating adhesive	(G) Aliphatic polyether polyolefin polyurethane
P–04–0780	07/29/04	10/26/04	Eastman Chemical Company	(G) Chemical intermediate	(S) Butanoic acid, 3-oxo-, 2,2-dimethyl-1,3-propanediyl ester
P–04–0781	07/30/04	10/27/04	CBI	(G) Coating	(G) Acrylic polymer
P–04–0782	07/30/04	10/27/04	The Dow Chemical Company	(S) Injection molded footwear	(G) Mdi-based polycaprolactone polyurethane
P–04–0783	07/30/04	10/27/04	Quest International Fragrances Co.	(S) Fragrance ingredient	(S) 2-ethyl-n-methyl-n(3-methylphenyl)butanamide
P–04–0784	07/30/04	10/27/04	CBI	(G) Machine seals	(G) 4,4'mdi based polyurethane polymer
P–04–0785	08/02/04	10/30/04	Forbo Adhesives, LLC	(G) Holt melt polyurethane adhesive	(G) Isocyanate functional polyester polyether urethane polymer
P–04–0786	08/02/04	10/30/04	Degussa Corporation	(S) Automotive clearcoats	(G) Cycloaliphatic isocyanate polymer with bis(alkoxysilylalkyl)amine
P–04–0787	08/04/04	11/01/04	CIBA Specialty Chemicals Corporation	(S) Wetting agent for inorganic fillers and pigments in pvc compounds	(G) Polyether carboxylate
P–04–0788	08/03/04	10/31/04	Rutgers Organics Corporation	(S) Anionic surfactant for water-based cleaners; surfactant for litho printing plate cleaners	(G) Alkylnaphthalene sulfonate-sodium salt
P–04–0789	08/03/04	10/31/04	Rutgers Organics Corporation	(S) Anionic surfactant for water-based cleaners; surfactant for litho printing plate cleaners	(G) Alkylnaphthalene sulfonate-sodium salt
P–04–0790	08/04/04	11/01/04	Gharda Chemicals Ltd.	(S) Molding and extrusion; compounding	(G) Polyethersulfone copolymer
P–04–0794	08/06/04	11/03/04	AOC L.L.C.	(S) Polyester component for gelcoat resin for spray up of fiberglass reinforced plastic parts	(S) Hexanedioic acid, polymer with 2,2-dimethyl-1,3-propanediol, 2-ethyl-2-(hydroxymethyl)-1,3-propanediol, 2,5-furanedione and 1,2-propanediol, 2-ethylhexyl ester

In Table II of this unit, EPA provides the following information (to the extent that such information is not claimed as CBI) on the Notices of Commencement to manufacture received:

II. 32 NOTICES OF COMMENCEMENT FROM: 07/13/04 TO 08/06/04

Case No.	Received Date	Commencement Notice End Date	Chemical
P–00–0635	07/26/04	07/10/04	(S) 1,3-dioxolan-2-one, 4-ethenyl
P–00–0758	08/02/04	07/20/04	(G) Isocyanate-terminated polyester polyurethane polymer
P–00–1024	08/04/04	07/30/04	(G) Epoxy polyamine adduct
P–01–0835	08/04/04	02/01/02	(G) Aliphatic ester of dicarboxylic acid
P–02–1071	08/02/04	06/28/04	(G) Alkylphosphine
P–03–0018	07/23/04	07/09/04	(G) Polysubstituted imidazole
P–03–0199	07/21/04	07/15/04	(G) Polyurethane
P–03–0341	08/02/04	07/23/04	(G) Funtional alcohol, polymer with ipdi, 2-hydroxyethyl acrylate-blocked
P–03–0571	07/13/04	09/24/03	(S) Poly[oxy(methyl-1,2-ethanediyl)],.alpha.,.alpha.'-(1,6-dioxo-1,6 hexanediyl)bis[.omega.-(tetradecyloxy)-
P–03–0724	07/21/04	07/08/04	(G) Polyetherester diepoxide
P–03–0763	07/13/04	06/25/04	(G) Modified polyisocyanate
P–04–0097	07/16/04	07/15/04	(G) Cycloaliphatic ester
P–04–0123	07/14/04	06/30/04	(G) Ppdi/carbonate/caprolactone/ether prepolymer
P–04–0254	07/26/04	07/08/04	(G) Mixed metal complex
P–04–0319	08/02/04	07/19/04	(S) Distillates (fischer-tropsch), hydroisomerized middle, C_{10-13}-branched alkane fraction
P–04–0353	07/14/04	07/04/04	(G) Azo nickel complex
P–04–0367	08/04/04	07/29/04	(G) Fatty acid ester amine compound
P–04–0370	08/06/04	08/02/04	(G) Acrylic polymer
P–04–0392	08/04/04	07/29/04	(G) Aliphatic n-substituted carboxylic acid amide, hydrochloride
P–04–0433	08/02/04	07/14/04	(G) Polycarboxylate polymer modified with alkylpoly(oxyalkylenediyl), calcium salt
P–04–0437	07/21/04	07/07/04	(G) Acrylate copolymer
P–04–0443	07/27/04	07/23/04	(G) Aliphatic polyurethane
P–04–0455	07/29/04	07/22/04	(G) 4-propyl-1,3-disubstituted benzene
P–04–0458	08/04/04	07/29/04	(G) Salt of acidic and basic polymers
P–04–0464	07/26/04	06/22/04	(G) 2-propenoic acid, dimers and compounds
P–04–0468	08/04/04	07/29/04	(G) Salt of acidic and basic polymers
P–04–0469	07/14/04	06/25/04	(G) Aliphatic n-substituted carboxylic acid amid
P–04–0476	08/02/04	07/01/04	(G) Alkylbenzene sulfonic acids, metal salts
P–95–0477	07/23/04	07/16/04	(S) 9h-fluorene-9-carboxylic acid, 9-hydroxy
P–98–0959	07/13/04	07/09/04	(G) Alkoxy benzoic acid
P–98–1057	07/13/04	07/09/04	(G) Substituted benzamide
P–98–1058	07/23/04	07/09/04	(G) Disubstituted heteromonocycle

List of Subjects

Environmental protection, Chemicals, Premanufacturer notices.

Dated: August 18, 2004.

Anthony L. Cheatham,

Acting Director, Information Management Division, Office of Pollution Prevention and Toxics.

[FR Doc. 04–19710 Filed 8–27–04; 8:45 am]

BILLING CODE 6560–50–S

FEDERAL COMMUNICATIONS COMMISSION

Notice of Public Information Collection(s) Being Reviewed by the Federal Communications Commission, Comments Requested

August 19, 2004.

SUMMARY: The Federal Communications Commission, as part of its continuing effort to reduce paperwork burden invites the general public and other Federal agencies to take this opportunity to comment on the following information collection(s), as required by the Paperwork Reduction Act (PRA) of 1995, Public Law 104–13. An agency may not conduct or sponsor a collection of information unless it displays a currently valid control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the Paperwork Reduction Act (PRA) that does not display a valid control number. Comments are requested concerning (a) whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; (b) the accuracy of the Commission's burden estimate; (c) ways to enhance the quality, utility and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology.

DATES: Written Paperwork Reduction (PRA) comments should be submitted on or before October 29, 2004. If you anticipate that you will be submitting comments, but find it difficult to do so within the period of time allowed by this notice, you should advise the contact listed below as soon as possible.

ADDRESSES: Direct all Paperwork Reduction Act (PRA) comments to Judith B. Herman, Federal Communications Commission, Room 1–C804, 445 12th Street, SW., Washington, DC 20554 or via the Internet to *Judith-B.Herman@fcc.gov.*

FOR FURTHER INFORMATION CONTACT: For additional information or copies of the information collection(s), contact Judith B. Herman at 202–418–0214 or via the Internet at *Judith-B.Herman@fcc.gov.*

SUPPLEMENTARY INFORMATION:

OMB Control Number: 3060–0824.

Title: Service Provider Identification Number and Contact Form.

Form No.: FCC Form 498.

Type of Review: Revision of a currently approved collection.

Respondents: Business or other for-profit, and not-for-profit institutions.

Number of Respondents: 5,000.

Estimated Time per Response: 2 hours.

Frequency of Response: On occasion reporting requirement, and third party disclosure requirement.

Total Annual Burden: 10,000 hours.

Total Annual Cost: N/A.

Privacy Act Impact Assessment: N/A.

Needs and Uses: The Administrator of the universal service program must obtain contact and remittance information from service providers participating in the universal service high cost, low income, rural health care, and schools and libraries programs. The Administrator uses the FCC Form 498 to collect service providers' name, phone numbers, other contact information, and remittance information from universal service fund participants to enable the Administrator to perform its universal service disbursement functions under 47 CFR part 54. FCC Form 498 also allows fund participants to direct remittance to third parties or receives payments directly from the Administrator. This collection is being revised to add a reference to 18 U.S.C. 1001 concerning punishment for willful false statements.

OMB Control Number: 3060–0853.

Title: Receipt of Service Confirmation Form; Certification by Administrative Authority to Billed Entity of Compliance with Children's Internet Protection Act (CIPA)—Universal Service for Schools and Libraries; Certifications for Libraries Unwilling to Make a CIPA Certification for 2003.

Form No.: FCC Forms 479, 486 and 500.

Type of Review: Revision of a currently approved collection.

Respondents: Business or other for-profit, and not-for-profit institutions.

Number of Respondents: 40,000.

Estimated Time per Response: 1.5–2 hours.

Frequency of Response: On occasion and annual reporting requirements, and third party disclosure requirement.

Total Annual Burden: 75,000 hours.

Total Annual Cost: N/A.

Privacy Act Impact Assessment: N/A.

Needs and Uses: The Telecommunications Act of 1996, as amended, contemplates that schools and libraries should be able to acquire Internet access and other telecommunications services on a discounted basis, and that the schools and libraries should seek reimbursement from the Universal Service Fund (Fund) for the services and equipment acquired. FCC Form 486 is necessary to confirm that recipients of schools and libraries funding adhere to the requirements of the Children's Internet Protection Act (CIPA) and to allow schools and libraries to confirm that they have received, or are scheduled to receive, the applied-for eligible services, so that invoicing may proceed. FCC Form 479 is necessary to confirm that schools and libraries that are part of a consortium adhere to the requirements of CIPA. FCC Form 500 permits schools and libraries to modify their filed records to reflect reductions in the funding they are due, or to modify the beginning or ending dates for the eligible services for which they will request reimbursement. This collection is being revised to require additional expanded certifications and information that will not cause an increase in the burden. The 486t form is being removed from this collection because it was a temporary form that is no longer needed.

OMB Control Number: 3060–0856.

Title: Universal Service—Schools and Libraries Universal Service Program Reimbursement Forms.

Form No.: FCC Forms 472, 473 and 474.

Type of Review: Revision of a currently approved collection.

Respondents: Business or other for-profit, and not-for-profit institutions.

Number of Respondents: 39,300.

Estimated Time per Response: 1.5 hours.

Frequency of Response: On occasion and annual reporting requirements, and third party disclosure requirement.

Total Annual Burden: 58,950 hours.

Total Annual Cost: N/A.

Privacy Act Impact Assessment: N/A.

Needs and Uses: The Telecommunications Act of 1996, as amended, contemplates that schools and libraries should be able to acquire Internet access and other telecommunications services on a discounted basis, and that the schools and libraries should seek reimbursement from the Universal Service Fund (Fund) for the services and equipment acquired. FCC Form 472 is necessary so that the schools and libraries can confirm that they are receiving, or have received, the eligible services, and that they have filed the proper documents for reimbursement from the Fund. FCC Forms 473 and 474 facilitate the reimbursement process by giving the providers of eligible services to schools and libraries a means to confirm that their invoices are in compliance with the Commission's rules. This collection is being revised to require additional expanded certifications and information that will not cause an increase in the burden.

OMB Control Number: 3060–0852.

Title: Application for Transfer of Control of a Multipoint Distribution Service Authorization.

Form No.: FCC Form 306.

Type of Review: Revision of a currently approved collection.

Respondents: Business or other for-profit, and not-for-profit institutions.

Number of Respondents: 20.

Estimated Time per Response: 58 hours (15.2 hours—transferor, 40.8 hours—transferee, and 2.0 hours—licensee).

Frequency of Response: On occasion reporting requirement.

Total Annual Burden: 110 hours.

Total Annual Cost: $211,275.

Privacy Act Impact Assessment: N/A.

Needs and Uses: FCC Form 306 is to be used to apply for authority to transfer control of an Multipoint Distribution Service (MDS) Authorization pursuant to 47 CFR 21.11, 21.38 and 21.39. The data is used by FCC staff to determine if the applicant is qualified to become a Commission licensee or permittee and to carry out the statutory provisions of section 310(d) of the Communications Act of 1934, as amended.

The Commission is now revising FCC Form 306 to request additional information to complete the Universal Licensing System (ULS) data elements since MDS/Instructional Television Fixed Service (ITFS) has been implemented into ULS. Additional information such as the licensee's e-mail address, fax number, type of applicant, contact's e-mail address and fax number will be added to this collection.

There will also be clarification of data elements, instructions and corrections of mailing addresses and web sites.

There is no change to the estimated average burden or number of respondents.

OMB Control Number: 3060–0851.

Title: Application for Assignment of a Multipoint Distribution Service Authorization.

Form No.: FCC Form 305.

Type of Review: Revision of a currently approved collection.

Respondents: Business or other for-profit, and not-for-profit institutions.

Number of Respondents: 160.

Estimated Time per Response: 55 hours (14.2 hours—assignor; 40.8 hours—assignee).

Frequency of Response: On occasion reporting requirement.

Total Annual Burden: 800 hours.
Total Annual Cost: $1,610,350.
Privacy Act Impact Assessment: N/A.
Needs and Uses: FCC Form 305 is to be used to apply for authority to assign an Multipoint Distribution Service (MDS) Authorization pursuant to 47 CFR 21.11, 21.38 and 21.39. The data is used by FCC staff to determine if the applicant is qualified to become a Commission licensee or permittee and to carry out the statutory provisions of section 310(d) of the Communications Act of 1934, as amended.

The Commission is now revising FCC Form 305 to request additional information to complete the Universal Licensing System (ULS) data elements since MDS/Instructional Television Fixed Service (ITFS) has been implemented into ULS. Additional information such as the licensee's e-mail address, fax number, type of applicant, contact's e-mail address and fax number will be added to this collection. There will also be clarification of data elements, instructions and corrections of mailing addresses and Web sites.

There is no change to the estimated average burden or number of respondents.

Federal Communications Commission.
Marlene H. Dortch,
Secretary.
[FR Doc. 04–19744 Filed 8–27–04; 8:45 am]
BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

[CC Docket No. 97–90; CCB/CPD File No. 97–12; DA 04–2055]

Requests of US West Communications, Inc. for Interconnection Cost Adjustment Mechanisms; Petition for Declaratory Ruling and Contingent Petition for Preemption

AGENCY: Federal Communications Commission.

ACTION: Notice.

SUMMARY: By this Order, the Wireline Competition Bureau dismisses without prejudice a joint Petition for Declaratory Ruling and Contingent Petition for Preemption filed by Electric Lightwave, Inc., McLeod USA Telecommunications Services, Inc., and NEXTLINE Communications, L.L.C. (Petitioners) asking the Commission to declare that the Interconnection Cost Adjustment Mechanism (ICAM) surcharges proposed by US West (now Qwest) violate the Communications Act of 1934, as amended. The petition is dismissed without prejudice unless any interested party comments within 30 days that there is still a genuine dispute that remains to be resolved.

DATES: Comments are due: September 29, 2004. Reply comments are due: October 14, 2004.

ADDRESSES: All filings must be sent to the Commission's Secretary, Marlene H. Dortch, Office of the Secretary, Federal Communications Commission, Room TW–A325, 445 Twelfth Street, SW., Washington, DC 20554. Filings may also be submitted using the Commission's Electronic Comment Filing System (ECFS) by sending an electronic file via the Internet to *http://www.fcc.gov/cgb/ecfs/*. Filings should reference CC Docket No. 97–90.

FOR FURTHER INFORMATION CONTACT: Julie Saulnier, Wireline Competition Bureau, Pricing Policy Division, (202) 418–1530.

SUPPLEMENTARY INFORMATION: The Order dismisses without prejudice joint Petitioners' request that the Commission declare that the ICAM surcharges proposed by US West (now Qwest) in each of the fourteen states in which it provides telecommunications services violate the cost-based interconnection standards of the Communications Act of 1934, as amended. The Order also dismisses Petitioners' request that the Commission initiate proceedings to preempt any state commission action allowing US West to implement ICAM surcharges. Qwest never pursued recovery of interconnection costs through ICAM surcharges, instead recovering them through a separate unbundled network element operations support system charge or a local interconnection service charge. Therefore, there appears to be no remaining controversy, and the petition is dismissed without prejudice unless any interested party provides notice within 30 days that there is still a genuine dispute that remains to be resolved.

This is a summary of the Bureau's Order in CC Docket No. 97–90, adopted on July 9, 2004. The complete text of the Order is available for public inspection Monday through Thursday from 8 a.m. to 4:30 p.m. and Friday from 8:00 a.m. to 11:30 a.m. in the Commission's Consumer and Governmental Affairs Bureau, Reference Information Center, Room CY–A257, 445 Twelfth Street, SW., Washington, DC 20554. The complete text is available also on the Commission's Internet site at *http://www.fcc.gov*. Alternative formats are available to persons with disabilities by contacting Brian Millin at (202) 418–7426 or TTY (202) 418–7365. The complete text of the Order may be purchased from the Commission's duplicating contractor, Best Copying and Printing, Inc., Room CY–B402, 445 Twelfth Street, SW., Washington, DC 20554, telephone (202) 488–5300, facsimile (202) 488–5563 or e-mail at *http://www.bcpiweb.com*.

Federal Communications Commission
Jeffrey J. Carlisle,
Chief, Wireline Competition Bureau.
[FR Doc. 04–19746 Filed 8–27–04; 8:45 am]
BILLING CODE 6712–01–P

FEDERAL RESERVE SYSTEM

Formations of, Acquisitions by, and Mergers of Bank Holding Companies

The companies listed in this notice have applied to the Board for approval, pursuant to the Bank Holding Company Act of 1956 (12 U.S.C. 1841 *et seq.*) (BHC Act), Regulation Y (12 CFR Part 225), and all other applicable statutes and regulations to become a bank holding company and/or to acquire the assets or the ownership of, control of, or the power to vote shares of a bank or bank holding company and all of the banks and nonbanking companies owned by the bank holding company, including the companies listed below.

The applications listed below, as well as other related filings required by the Board, are available for immediate inspection at the Federal Reserve Bank indicated. The 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 September 24, 2004.

A. Federal Reserve Bank of Minneapolis (Jacqueline G. Nicholas, Community Affairs Officer) 90 Hennepin Avenue, Minneapolis, Minnesota 55480–0291:

1. Timberland Bancorp, Baxter, Minnesota; to become a bank holding

company by acquiring 100 percent of the voting shares of Buhl Bancorporation, Inc., Buhl, Minnesota, and thereby indirectly acquire voting shares of The First National Bank of Buhl, Buhl, Minnesota.

Board of Governors of the Federal Reserve System, August 25, 2004.

Robert deV. Frierson,

Deputy Secretary of the Board.

[FR Doc. 04–19771 Filed 8–27–04; 8:45 am]

BILLING CODE 6210–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Meeting of the National Vaccine Advisory Committee; Public Participation Working Group

AGENCY: Department of Health and Human Services, Office of the Secretary.

ACTION: Notice.

SUMMARY: The Department of Health and Human Services (DHHS) is hereby giving notice that the Public Participation Working Group of the National Vaccine Advisory Committee (NVAC) will hold a meeting. The purpose of this meeting is to provide the Working Group with an overview of different public engagement models and to learn how these models might be applied in developing a public engagement model for vaccine policy issues. The meeting is open to the public.

DATES: The meeting will be held on September 13, 2004, from 9 a.m. to 4:30 p.m., and on September 14, 2004, from 9 a.m. to 4:30 p.m.

ADDRESSES: Department of Health and Human Services; Hubert H. Humphrey Building, Room 705A; 200 Independence Avenue, SW., Washington, DC 20201.

FOR FURTHER INFORMATION, CONTACT: Ms. Erika Joyner, Program Analyst, National Vaccine Program Office, Department of Health and Human Services, Room 725H Hubert H. Humphrey Building, 200 Independence Avenue, SW., Washington, DC 20201; (202) 690–5566, *ejoyner@osophs.dhhs.gov*.

SUPPLEMENTARY INFORMATION: Pursuant to Section 2101 of the Public Service Act (42 U.S.C. Section 300aa–1), the Secretary of Health and Human Services was mandated to establish the National Vaccine Program (NVP) to achieve optimal prevention of human infectious diseases through immunization and to achieve optimal prevention against adverse reactions to vaccines. The Secretary designated the Assistant Secretary for Health to serve as the Director, NVPO. The National Vaccine Advisory Committee (NVAC) was established to provide advice and make recommendations to the Director, NVPO, on matters related to the program's responsibilities. A Public Participation Working Group has been established to assess how to enhance public engagement in vaccine policy issues.

A number of Federal models for enhancing public engagement will be examined. A tentative agenda will be made available on or about September 6 for review on the NVAC Web site: *http://www.hhs.gov/nvpo/nvac*.

Public attendance at the meeting is limited to space available. Individuals must provide a photo ID for entry into the Humphrey Building. Individuals who plan to attend and need special assistance, such as sign language interpretation or other reasonable accommodations, should notify the designated contact person. Members of the public will have the opportunity to provide comments at the meeting. Public comment will be limited to five minutes per speaker. Preregistration is required for both public attendance and comment. Any individual who wishes to attend the meeting and/or participate in the public comment session should email *ejoyner@osophs.dhhs.gov*.

Dated: August 25, 2004.

Bruce Gellin,

Director, National Vaccine Program Office, Executive Secretary, National Vaccine Advisory Committee.

[FR Doc. 04–19708 Filed 8–27–04; 8:45 am]

BILLING CODE 4150–28–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

Government-owned Inventions; Availability for Licensing and Cooperative Research and Development Agreements (CRADAs)

AGENCY: National Institute for Occupational Safety and Health, Centers for Disease Control and Prevention, Technology Transfer Office, Department of Health and Human Services.

ACTION: Notice.

SUMMARY: The invention named in this notice is owned by agencies of the United States Government and is available for licensing in the United States (U.S.) in accordance with 35 U.S.C. 207, and is available for cooperative research and development agreements (CRADAs) in accordance with 15 U.S.C. 3710, to achieve expeditious commercialization of results of federally funded research and development. U.S. and foreign patent applications are expected to be filed in the near future, to extend market coverage for U.S. companies, and may also be available for licensing.

ADDRESSES: Licensing information may be obtained by writing to Suzanne Seavello Shope, J.D., Technology Licensing and Marketing Scientist, Technology Transfer Office, Centers for Disease Control and Prevention (CDC), Mailstop K–79, 4770 Buford Highway, Atlanta, GA 30341, telephone (770) 488–8613; facsimile (770) 488–8615; e-mail *sshope@cdc.gov*. CRADA information, and information related to the technology listed below, may be obtained by writing to Kathleen Goedel, Program Analyst, Technology Transfer Office, National Institute for Occupational Safety and Health (NIOSH), Centers for Disease Control and Prevention (CDC), mailstop R–6, 4676 Columbia Parkway, Cincinnati, OH 45226, telephone (513) 841–4560; facsimile (513) 458–7170; or e-mail *kgoedel@cdc.gov*. A signed Confidential Disclosure Agreement (available under Forms at *http://www.cdc.gov/tto*) will be required to receive copies of unpublished patent applications and other information.

Occupational Safety

Cleansing and Removal Method and Technique for Lead Contaminated Dermal Surfaces

Workplace exposure to toxic metals, (*i.e.*, lead, cadmium, and arsenic) can cause systemic poisoning and are a recognized health threat to thousands of workers in numerous industries. A potentially significant, but often overlooked risk for exposures is hand-to-mouth transfer due to contaminated hands. Other metals of concern include chromium and nickel, which are potential skin sensitizers that can have significant and long-term health consequences for those affected. Prevention of skin exposures should be the primary course of action, but effective removal of metals from skin becomes necessary when dermal exposures cannot be completely controlled, and when the efficacy of handwashing is questionable.

NIOSH/CDC researchers have developed a novel handwipe system for removal of certain toxic metals from the skin. Preliminary research shows that this new approach is highly effective and performs better than traditional handwashing (soap and water) as well as better than other commercial

handwashing products. The new method is easy to use and inherently safe to both the user and the environment and has been submitted for patent protection.

CDC/NIOSH is soliciting for a Cooperative Research and Development Agreement (CRADA) partner to refine development of this new skin cleanser and to license and commercialize the final product. Preferred partners will have the ability to conduct testing to verify the safety of regular repeated use through a battery of clinical and instrumental test procedures aimed at determining skin compatibility. Testing trials to assess user acceptance and laboratory evaluations to determine product stability are also requested. Preferred partners should also be able to propose recommendations to the basic formulation for enhancements to user acceptance and final packaging of the end product. Preferred partners will have a strong market share and a demonstrated business network capable of effective dissemination of the final product.

Patent applications will be filed on new intellectual property resulting from the CRADA. The CRADA partner will have an option to exclusively license any rights NIOSH/CDC may have in the new technology.

Inventors: Esswein, Eric *et al.*
U.S. Patent Application SN: Not yet filed. (CDC Ref. #: I–028–03).

Dated: August 23, 2004.

James D. Seligman,

Associate Director for Program Service, Centers for Disease Control and Prevention.

[FR Doc. 04–19702 Filed 8–27–04; 8:45 am]
BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

Fees for Sanitation Inspections of Cruise Ships

AGENCY: Centers for Disease Control and Prevention (CDC), Department of Health and Human Services (HHS).

ACTION: Notice.

SUMMARY: This notice announces fees for vessel sanitation inspections for fiscal year 2005 (October 1, 2004, through September 30, 2005).

EFFECTIVE DATE: October 1, 2004.

FOR FURTHER INFORMATION CONTACT: David L. Forney, Chief, Vessel Sanitation Program, National Center for Environmental Health, Centers for Disease Control and Prevention (CDC), 4770 Buford Highway, NE., Mailstop F–23, Atlanta, Georgia 30341–3724, telephone (770) 488–7333, e-mail: *Dforney@cdc.gov.*

SUPPLEMENTARY INFORMATION:

Purpose and Background

The fee schedule for sanitation inspections of passenger cruise ships inspected under the Vessel Sanitation Program (VSP) was first published in the **Federal Register** on November 24, 1987 (52 FR 45019), and CDC began collecting fees on March 1, 1988. Since then, CDC has published the fee schedule annually. This notice announces fees effective October 1, 2004.

The formula used to determine the fees is as follows: Average cost per inspection = Total cost of VSP divided by the Weighted number of annual inspections.

The average cost per inspection is multiplied by a size/cost factor to determine the fee for vessels in each size category. The size/cost factor was established in the proposed fee schedule published in the **Federal Register** on July 17, 1987 (52 FR 27060), and revised in a schedule published in the **Federal Register** on November 28, 1989 (54 FR 48942). The revised size/cost factor is presented in Appendix A.

Fee

The fee schedule (Appendix A) will be effective October 1, 2004, through September 30, 2005. The fee schedule, which became effective October 1, 2001, will remain the same in Fiscal Year 2005. If travel expenses continue to increase, the fees may need adjustment before September 30, 2005, because travel constitutes a sizable portion of VSP's costs. If an adjustment is necessary, a notice will be published in the **Federal Register** 30 days before the effective date.

Applicability

The fees will apply to all passenger cruise vessels for which inspections are conducted as part of CDC's VSP.

Dated: August 23, 2004.

James D. Seligman,

Associate Director for Program Services, Centers for Disease Control and Prevention (CDC).

Appendix A

SIZE/COST FACTOR

Vessel size	GRT [1]	Average cost ($U.S.) per GRT
Extra Small	<3,001	0.25
Small	3,001–15,000	0.50
Medium	15,001–30,000	1.00
Large	30,001–60,000	1.50
Extra Large	>60,000	2.00

[1] Gross register tonnage in cubic feet, as shown in Lloyd's Register of Shipping.

FEE SCHEDULE OCTOBER 1, 2004—SEPTEMBER 30, 2005

Vessel size	GRT [1]	Fee
Extra Small	<3,001	1,150
Small	3,001–15,000	2,300
Medium	15,001–30,000	4,600
Large	30,001–60,000	6,900
Extra Large> 60,000 9,200.		

[1] Gross register tonnage in cubic feet, as shown in Lloyd's Register of Shipping.

Inspections and reinspections involve the same procedure, require the same amount of time, and are therefore charged at the same rate.

[FR Doc. 04–19703 Filed 8–27–04; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 2004D–0343]

Draft Guidance for Industry and Food and Drug Administration Staff; Hospital Bed System Dimensional Guidance to Reduce Entrapment; Availability

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing the availability of the draft guidance entitled "Hospital Bed System Dimensional Guidance to Reduce Entrapment." This draft guidance provides recommendations intended to reduce life-threatening entrapments associated with hospital bed systems. It characterizes the body parts at risk for entrapment, identifies the locations of hospital bed openings that are potential entrapment areas, and recommends dimensional criteria for bed systems.

DATES: Submit written or electronic comments on this draft guidance by November 29, 2004.

ADDRESSES: Submit written requests for single copies on a 3.5″ diskette of the draft guidance document entitled "Hospital Bed System Dimensional Guidance to Reduce Entrapment" to the Division of Small Manufacturers, International, and Consumer Assistance (HFZ–220), Center for Devices and Radiological Health, Food and Drug Administration, 1350 Piccard Dr., Rockville, MD 20850. Send one self-addressed adhesive label to assist that office in processing your request, or fax your request to 301–443–8818. See the **SUPPLEMENTARY INFORMATION** section for information on electronic access to the guidance.

Submit written comments concerning this draft guidance to the Division of Dockets Management (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852. Submit electronic comments to *http://www.fda.gov/dockets/ecomments.* Identify comments with the docket number found in brackets in the heading of this document.

FOR FURTHER INFORMATION CONTACT: Jay A. Rachlin, Center for Devices and Radiological Health (HFZ–230), Food and Drug Administration, 1350 Piccard Dr., Rockville, MD 20850, 301–594–3173.

SUPPLEMENTARY INFORMATION:

I. Background

This draft guidance identifies special issues associated with hospital bed systems and provides recommendations intended to reduce life-threatening entrapments associated with these devices. Manufacturers may use this guidance to assess current hospital bed systems and to assist in the design of new beds.

II. Significance of Guidance

This draft guidance is being issued consistent with FDA's good guidance practices regulation (21 CFR 10.115). The draft guidance, when finalized, will represent the agency's current thinking on appropriate dimensional limits for gaps in hospital bed systems to prevent entrapment. It does not create or confer any rights for or on any person and does not operate to bind FDA or the public. An alternative approach may be used if such approach satisfies the requirements of the applicable statute and regulations.

III. Electronic Access

To receive the "Hospital Bed System Dimensional Guidance to Reduce Entrapment" you may either send a fax request to 301–443–8818 to receive a hard copy of the document, or send an e-mail request to *GWA@CDRH.FDA.GOV* to receive a hard copy or an electronic copy. Please use the document number 1537 to identify the guidance you are requesting.

Persons interested in obtaining a copy of the draft guidance may also do so by using the Internet. CDRH maintains an entry on the Internet for easy access to information including text, graphics, and files that may be downloaded to a personal computer with Internet access. Updated on a regular basis, the CDRH home page includes device safety alerts, **Federal Register** reprints, information on premarket submissions (including lists of approved applications and manufacturers' addresses), small manufacturer's assistance, information on video conferencing and electronic submissions, Mammography Matters, and other device-oriented information. The CDRH Web site may be accessed at *http://www.fda.gov/cdrh.* A search capability for all CDRH guidance documents is available at *http://www.fda.gov/cdrh/guidance.html.* Guidance documents are also available on the Division of Dockets Management Internet site at *http://www.fda.gov/ohrms/dockets.*

IV. Comments

Interested persons may submit to the Division of Dockets Management (see **ADDRESSES**), written or electronic comments regarding this document. Submit a single copy of electronic comments or two paper copies of any mailed comments, except that individuals may submit one copy. Received comments are to be identified with the docket number found in brackets in the heading of this document. Comments received may be seen in the Division of Dockets Management between 9 a.m. and 4 p.m., Monday through Friday.

Dated: August 11, 2004.

Linda S. Kahan,

Deputy Director, Center for Devices and Radiological Health.

[FR Doc. 04–19656 Filed 8–27–04; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HOMELAND SECURITY

Bureau of Citizenship and Immigration Services

Agency Information Collection Activities: Revision of Existing Collection; Comment Request

ACTION: Request OMB Emergency Approval: Immigrant Petition for Alien Workers, 1615–0015.

The Department of Homeland Security (DHS) and the Bureau of Citizenship and Immigration Services (CIS) has submitted an emergency information collection request (ICR) utilizing emergency review procedures, to the Office of Management and Budget (OMB) for review and clearance in accordance with section 1320.13(a)(1)(ii) and (a)(2)(iii) of the Paperwork Reduction Act of 1995. The DHS has determined that it cannot reasonably comply with the normal clearance procedures under this part because normal clearance procedures are reasonably likely to prevent or disrupt the collection of information. Therefore, immediate OMB approval has been requested. If granted, the emergency approval is only valid for 180 days. ALL comments and/or questions pertaining to this pending request for emergency approval MUST be directed to OMB, Office of Information and Regulatory Affairs, Attention: Desk Officer, Department of

Homeland Security, 725—17th Street, NW., Suite 10235, Washington, DC 20503; (202) 395–5806.

During the first 60 days of this same period, a regular review of this information collection is also being undertaken. During the regular review period, the DHS requests written comments and suggestions from the public and affected agencies concerning this the information collection. Comments are encouraged and will be accepted until [Insert the date of the 60th day from the date that this notice is published in the **Federal Register**]. During 60-day regular review, ALL comments and suggestions, or questions regarding additional information, to include obtaining a copy of the information collection instrument with instructions, should be directed to Mr. Richard A. Sloan, (202) 616–7600. Director, Regulations and Forms Services Division, Department of Homeland Security, Room 4034, 425 I Street, NW., Washington, DC 20536. Written comments and suggestions from the public and affected agencies concerning the proposed collection of information should address one or more of the following four points.

(1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) Evaluate the accuracy of the agencies estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarify of the information to be collected; and

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

Overview of this information collection:

(1) *Type of Information Collection:* Revision of currently approved collection.

(2) *Title of the Form/Collection:* Immigrant Petition for Alien Workers.

(3) *Agency form number, if any, and the applicable component of the Department of Homeland Security sponsoring the collection:* Form I–140, Bureau of Citizenship and Immigration Services (CIS).

(4) *Affected public who will be asked or required to respond, as well as a brief abstract:* Primary: Individuals or Households. This form is used to classify a person under section 203(b)(1), 203(b)(2), or 203(b)(3) of the Immigration and Nationality Act. The data collected on this form will be used by the CIS to determine eligibility for the requested immigration benefit.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* 96,000 responses at 60 minutes (1 hour) per response.

(6) *An estimate of the total public burden (in hours) associated with the collection:* 96,000 annual burden hours.

If you have additional comments, suggestions, or need a copy of the proposed information collection instrument with instructions, or additional information, please contact Richard A. Sloan (202) 616–7600, Director, Regulations and Forms Services Division, Bureau of Citizenship and Immigration Services, Department of Homeland Security, Room 4304, 425 I Street, NW., Washington, DC 20536. Additionally, comments and/or suggestions regarding the item(s) contained in this notice, especially regarding the estimated public burden and associated response time may also be directed to Mr. Richard A. Sloan.

Dated: August 24, 2004.

Richard A. Sloan,

Department Clearance Officer, Department of Homeland Security Bureau of Citizenship and Immigration Services.

[FR Doc. 04–19750 Filed 8–27–04; 8:45 am]

BILLING CODE 4410–10–M

DEPARTMENT OF HOMELAND SECURITY

Bureau of Citizenship and Immigration Services

Agency Information Collection Activities: Extension of Existing Collection; Comment Request

ACTION: Request OMB Emergency Approval: Checklist for On-Site Review of Schools; OMB–35, 1615–0006.

The Department of Homeland Security (DHS) and the Bureau of Citizenship and Immigration Services (CIS) has submitted an emergency information collection request (ICR) utilizing emergency review procedures, to the Office of Management and Budget (OMB) for review and clearance in accordance with section 1320.13(a)(1)(ii) and (a)(2)(iii) of the Paperwork Reduction Act of 1995. The DHS has determined that it cannot reasonably comply with the normal clearance procedures under this part because normal clearance procedures are reasonably likely to prevent or disrupt the collection of information. Therefore, immediate OMB approval has been requested. If granted, the emergency approval is only valid for 180 days. ALL comments and/or questions pertaining to this pending request for emergency approval MUST be directed to OMB, Office of Information and Regulatory Affairs, Attention: Desk Officer, Department of Homeland Security, 725—17th Street, NW., Suite 10235, Washington, DC 20503; 202–395–5806.

During the first 60 days of this same period, a regular review of this information collection is also being undertaken. During the regular review period, the DHS requests written comments and suggestions from the public and affected agencies concerning this information collection. Comments are encouraged and will be accepted until October 29, 2004. During the 60-day regular review, ALL comments and suggestions, or questions regarding additional information, to include obtaining a copy of the information collection instrument with instructions, should be directed to Mr. Richard A. Sloan, 202–616–7600, Director, Regulations and Forms Services Division, Department of Homeland Security, Room 4034, 425 I Street, NW., Washington, DC 20536. Written comments and suggestions from the public and affected agencies concerning the proposed collection of information should address one or more of the following four points:

(1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) Evaluate the accuracy of the agencies estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

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

Overview of this information collection:

(1) *Type of Information Collection:* Extension of a currently approved information collection.

(2) *Title of the Form/Collection:* Checklist for On-Site Review of Schools.

(3) *Agency form number, if any, and the applicable component of the Department of Homeland Security sponsoring the collection:* No Agency Form Number; File No. OMB–35, Bureau of Citizenship and Immigration Services.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract:* Primary: Individuals or Households. The data is used by the agency when conducting on-site visits at schools that submitted certification applications in SEVIS after the preliminary enrollment period.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* 10,000 responses at 65 (1.083) minutes per response.

(6) *An estimate of the total public burden (in hours) associated with the collection:* 10,830 annual burden hours.

If you have additional comments, suggestions, or need a copy of the proposed information collection instrument with instructions, or additional information, please contact Richard A. Sloan 202–616–7600, Director, Regulations and Forms Services Division, Bureau of Citizenship and Immigration Services, Department of Homeland Security, Room 4304, 425 I Street, NW., Washington, DC 20536. Additionally, comments and/or suggestions regarding the item(s) contained in this notice, especially regarding the estimated public burden and associated response time may also be directed to Mr. Richard A. Sloan.

Dated: August 24, 2004.

Richard A. Sloan,

Department Clearance Officer, Department of Homeland Security, Bureau of Citizenship and Immigration Services.

[FR Doc. 04–19751 Filed 8–27–04; 8:45 am]

BILLING CODE 4410–10–M

DEPARTMENT OF HOMELAND SECURITY

Bureau of Citizenship and Immigration Services

Agency Information Collection Activities: Extension of Existing Collection; Comment Request

ACTION: Notice of Information Collection under Review: Request for Fee Waiver Denial Letter, 1615–0089.

The Department of Homeland Security (DHS) and the Bureau of Citizenship and Immigration Services (CIS) has submitted an emergency information collection request (ICR) utilizing emergency review procedures, to the Office of Management and Budget (OMB) for review and clearance in accordance with section 1320.13(a)(1)(ii) and (a)(2)(iii) of the Paperwork Reduction Act of 1995. The DHS has determined that it cannot reasonably comply with the normal clearance procedures under this part because normal clearance procedures are reasonably likely to prevent or disrupt the collection of information. Therefore, immediate OMB approval has been requested. If granted, the emergency approval is only valid for 180 days. ALL comments and/or questions pertaining to this pending request for emergency approval MUST be directed to OMB, Office of Information and Regulatory Affairs, Attention: Desk Officer, Department of Homeland Security, 725—17th Street, NW., Suite 10235, Washington, DC 20503; (202) 395–5806.

During the first 60 days of this same period, a regular review of this information collection is also being undertaken. During the regular review period, the DHS requests written comments and suggestions from the public and affected agencies concerning this information collection. Comments are encouraged and will be accepted until October 29, 2004. During 60-day regular review, ALL comments and suggestions, or questions regarding additional information, to include obtaining a copy of the information collection instrument with instructions, should be directed to Mr. Richard A. Sloan, (202) 616–7600, Director, Regulations and Forms Services Division, Department of Homeland Security, Room 4034, 425 I Street, NW., Washington, DC 20536. Written comments and suggestions from the public and affected agencies concerning the proposed collection of information should address one or more of the following four points:

(1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) Evaluate the accuracy of the agencies estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

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

Overview of this information collection:

(1) *Type of Information Collection:* Extension of a currently approved information collection.

(2) *Title of the Form/Collection:* Request for Fee Waiver Denial Letter.

(3) *Agency form number, if any, and the applicable component of the Department of Justice sponsoring the collection:* Form G–1054. Bureau of Citizenship and Immigration Services (CIS).

(4) *Affected public who will be asked or required to respond, as well as a brief abstract:* Primary: Individuals or Households. Title 8 CFR 103.7(c), which authorizes the agency to waive fees, reads (in pertinent part) as follows: "The officer of the Service having jurisdiction to render a decision on the application, petition, appeal, motion or request may, in his discretion, grant the waiver of fee." In order to maintain consistency in the adjudication of fee waiver requests, to collect accurate data on amounts of fee waivers, and to facilitate the public-use process, it is necessary to implement this Fee Waiver Denial Letter, Form G–1054.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* 16,000 responses at 1.25 hours (75 minutes) per response.

(6) *An estimate of the total public burden (in hours) associated with the collection:* 20,000 annual burden hours.

If you have additional comments, suggestions, or need a copy of the proposed information collection instrument with instructions, or additional information, please contact Richard A. Sloan (202) 616–7600, Director, Regulations and Forms Services Division, Bureau of Citizenship and Immigration Services, Department of Homeland Security, Room 4304, 425 I Street, NW., Washington, DC 20536. Additionally, comments and/or suggestions regarding the item(s) contained in this notice, especially regarding the estimated public burden and associated response time may also be directed to Mr. Richard A. Sloan.

Dated: August 24, 2004.

Richard A. Sloan,

Department Clearance Officer, Department of Homeland Security, Bureau of Citizenship and Immigration Services.

[FR Doc. 04–19752 Filed 8–27–04; 8:45 am]

BILLING CODE 4414–10–M

DEPARTMENT OF HOMELAND SECURITY

Bureau of Citizenship and Immigration Services

Agency Information Collection Activities: Extension of Existing Collection; Comment Request

ACTION: Notice of Information Collection under Review: Sponsor's Notice of Change of Address, 1615–0076.

The Department of Homeland Security (DHS) and the Bureau of Citizenship and Immigration Services (CIS) has submitted an emergency information collection request (ICR) utilizing emergency review procedures, to the Office of Management and Budget (OMB) for review and clearance in accordance with section 1320.13(a)(1)(ii) and (a)(2)(iii) of the Paperwork Reduction Act of 1995. The DHS has determined that it cannot reasonably comply with the normal clearance procedures under this part because normal clearance procedures are reasonably likely to prevent or disrupt the collection of information. Therefore, immediate OMB approval has been requested. If granted, the emergency approval is only valid for 180 days. All comments and/or questions pertaining to this pending request for emergency approval MUST be directed to OMB, Office of Information and Regulatory Affairs, Attention: Desk Officer, Department of Homeland Security, 725—17th Street, NW., Suite 10235, Washington, DC 20503; (202) 395–5806.

During the first 60 days of this same period, a regular review of this information collection is also being undertaken. During the regular review period, the DHS requests written comments and suggestions from the public and affected agencies concerning this information collection. Comments are encouraged and will be accepted until October 29, 2004. During 60-day regular review, ALL comments and suggestions, or questions regarding additional information, to include obtaining a copy of the information collection instrument with instructions, should be directed to Mr. Richard A. Sloan, 202–616–7600, Director, 4034, 425 I Street, NW., Washington, DC 20536. Written comments and suggestions from the public and affected agencies concerning the proposed collection of information should address one or more of the following four points:

(1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) Evaluate the accuracy of the agencies estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

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

Overview of this information collection:

(1) *Type of Information Collection:* Extension of a currently approved information collection.

(2) *Title of the Form/Collection:* Sponsor's Notice of Change of Address.

(3) *Agency form number, if any, and the applicable component of the Department of Justice sponsoring the collection:* Form I–865. Bureau of Citizenship and Immigration Services (CIS).

(4) *Affected public who will be asked or required to respond, as well as a brief abstract:* Primary: Individuals or Households. This form will be used by every sponsor who has filed an Affidavit of Support under Section 213A of the INA to notify the CIS of a change of address. The data will be used to locate a sponsor if there is a request for reimbursement.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* 100,000 responses at .233 hours (14 minutes) per response.

(6) *An estimate of the total public burden (in hours) associated with the collection:* 23,300 annual burden hours.

If you have additional comments, suggestions, or need a copy of the proposed information collection instrument with instructions, or additional information, please contact Richard A. Sloan (202) 616–7600, Director, Regulations and Forms Services Division, Bureau of Citizenship and Immigration Services, Department of Homeland Security, Room 4304, 425 I Street, NW., Washington, DC 20536. Additionally, comments and/or suggestions regarding the item(s) contained in this notice, especially regarding the estimated public burden and associated response time may also be directed to Mr. Richard A. Sloan.

Dated: August 24, 2004.

Richard A. Sloan,

Department Clearance Officer, Department of Homeland Security, Bureau of Citizenship and Immigration Services.

[FR Doc. 04–19753 Filed 8–27–04; 8:45 am]

BILLING CODE 4410–10–M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–4903–N–65]

Notice of Submission of Proposed Information Collection to OMB; Floodplain Management

AGENCY: Office of the Chief Information Officer.

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.

HUD is requesting renewal of approval to collect information on project development on floodplains. HUD grant recipients proposing to use HUD funds for projects within floodplains or wetlands provide information indicating compliance with relevant requirements. Respondents must publish notifications of intent and inform affected private parties (potential purchasers, etc.).

DATES: *Comments Due Date:* September 29, 2004.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and/or OMB approval Number (2506–0151) 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: Wayne Eddins, Reports Management Officer, AYO, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410; e-mail *Wayne_Eddins@HUD.gov*; telephone (202) 708–2374. This is not a toll-free number. Copies of available documents submitted to OMB may be

obtained from Mr. Eddins and at HUD's Web site at *http://www5.hud.gov:63001/po/i/icbts/collectionsearch.cfm*.

SUPPLEMENTARY INFORMATION: This Notice informs the public that the U.S. Department of Housing and Urban Development (HUD) has submitted to OMB, for emergency processing, a survey instrument to obtain information from faith based and community organizations on their likelihood and success at applying for various funding programs. 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: Floodplain Management.

OMB Approval Number: 2506–0151.

Form Numbers: None.

Description of the Need for the Information and Its Proposed Use: HUD grant recipients proposing to use HUD funds for projects within floodplains or wetlands provide information indicating compliance with relevant requirements. Respondents must publish notifications of intent and inform affected private parties (potential purchasers, etc.).

Frequency of Submission: On Occasion.

	Number of Respondents	Annual Responses	×	Hours per Response	=	Burden Hours
Reporting Burden:	300	1	....	9	....	2,700

Total Estimated Burden Hours: 2,700.

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: August 24, 2004.

Wayne Eddins,

Departmental Reports Management Officer, Office of the Chief Information Officer.

[FR Doc. 04–19763 Filed 8–27–04; 8:45 am]

BILLING CODE 4210–72–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–4910–N–19]

Notice of Proposed Information Collection for Public Comment; Indian Housing Block Grant Program Under the Native American Housing Assistance and Self-Determination Act: Data Collection

AGENCY: Office of the Assistant Secretary for Public and Indian Housing, HUD.

ACTION: Notice.

SUMMARY: The proposed information collection requirement described below will be submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. The Department is soliciting public comments on the subject proposal.

DATES: *Comments due date:* October 29, 2004.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and/or OMB Control number and should be sent to: Sherry Fobear-McCown, Reports Liaison Officer, Public and Indian Housing, Department of Housing and Urban Development, Public and Indian Housing, Office of Policy, Program, and Legislative Initiatives, 451 7th Street, SW., Room 4116, Washington, DC 20410–5000.

FOR FURTHER INFORMATION CONTACT: Sherry Fobear-McCown, (202) 708–0713, extension 7651, for copies of the proposed forms and other available documents. (This is not a toll-free number).

SUPPLEMENTARY INFORMATION: The Department will submit the proposed information collection to OMB for review, as required by the Paperwork Reduction Act of 1995 (44 U.S.C. chapter 35, as amended).

This Notice is soliciting comments from members of the public and affected agencies concerning the proposed collection of information to: (1) Evaluate whether the proposed collection 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: Data Collection for the Indian Housing Block Grant Program under the Native American Housing Assistance and Self-Determination Act: Indian Housing Plan, Annual Performance Report, and Federal Cash Transactions Report—Office of Native American Programs (ONAP).

OMB Control Number: 2577–0218.

Description of the Need for the Information and Proposed Use: The Native American Housing Assistance and Self-Determination Act requires recipients (which includes both tribes and tribally designated housing entities) to submit to ONAP specific information that is necessary if they want to implement low-income housing programs in their communities using Indian Housing Block Grant (IHBG) funds. IHBG funds are made available using a formula developed through negotiated rulemaking procedures.

Agency Form Number: Indian Housing Plan (HUD–52735); Annual Performance Report (HUD–52735–AS); Federal Cash Transactions Report—ONAP (HUD–272–I).

Members of Affected Public: Indian Tribes and Alaska Native Villages.

Estimation of the Total Number of Hours Needed to Prepare the Information Collection Including Number of Respondents: 366 respondents, 1 response for HUD–52735 and HUD–52735–AS per respondent and 4 responses for HUD–272–I per respondent, 2,196 total responses, 181 average hours per response for HUD–52735 and HUD–52735–AS per response and 1½ hours per response for

HUD–272–I, 134,592 hours for a total reporting burden.

Status of the Proposed Information Collection: Extension of currently approved collection.

Authority: Section 3506 of the Paperwork Reduction Act of 1995, 44 U.S.C. chapter 35, as amended.

Dated: August 20, 2004.

William Russell,

Deputy Assistant Secretary for Public Housing and Voucher Programs.

[FR Doc. 04–19764 Filed 8–27–04; 8:45 am]

BILLING CODE 4210–33–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Issuance of Permit for Incidental Take of Threatened Species at Eagle's Nest Open Space, Larimer County, Colorado

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of issuance of permit for incidental take of endangered species.

SUMMARY: On February 27, 2004, a notice was published in the **Federal Register** (Vol. 69 No. 39 FR 9365), that an application had been filed with the U.S. Fish and Wildlife Service (Service) by the Larimer County Parks and Open Lands Department for a permit to incidentally take, under section 10(a)(1)(B) of the Endangered Species Act of 1973 (16 U.S.C. 1539), as amended, Preble's meadow jumping mouse (*Zapus hudsonius preblei*), pursuant to the terms of the "Environmental Assessment/Habitat Conservation Plan for Issuance of an Endangered Species Section 10(a)(1)(B) Permit for the Incidental Take of the Preble's Meadow Jumping Mouse (*Zapus hudsonius preblei*) at Eagle's Nest Open Space in Larimer County, Colorado."

DATES: Notice is hereby given that on August 5, 2004, as authorized by the provisions of the Endangered Species Act, the Service issued a permit (TE–083409–0) to the above named party subject to certain conditions set forth therein. The permit was granted only after the Service determined that it was applied for in good faith, that granting the permit would not be to the disadvantage of the threatened species, and that it would be consistent with the purposes and policy set forth in the Endangered Species Act, as amended.

ADDRESSES: Additional information on this permit action may be requested by contacting the Colorado Field Office, 755 Parfet Street, Suite 361, Lakewood, Colorado 80215.

Dated: August 18, 2004.

John A. Blankenship,

Regional Director, Denver, Colorado.

[FR Doc. 04–19705 Filed 8–27–04; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Notice of Meeting of the Trinity Adaptive Management Working Group

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of meeting.

SUMMARY: Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (5 U.S.C. App. I), this notice announces a meeting of the Trinity Adaptive Management Working Group (TAMWG). The TAMWG affords stakeholders the opportunity to give policy, management, and technical input concerning Trinity River restoration efforts to the Trinity Management Council. Primary objectives of the meeting will include: Summer/Fall flow releases, FY 2005 budget for Trinity River Restoration Program, and program evaluation recommendations. The agenda items are approximate and are dependent on the amount of time each item takes. The meeting could end early if the agenda has been completed. The meeting is open to the public.

DATES: The Trinity Adaptive Management Working Group will meet from 9 a.m. to 5 p.m. on Wednesday, September 8, and 8 a.m. to 1 p.m. on Thursday, September 9, 2004.

ADDRESSES: The meeting will be held at the Trinity County Library, 211 Main Street, Weaverville, CA 96093. Telephone: (530) 623–1373.

FOR FURTHER INFORMATION CONTACT: Dr. Mary Ellen Mueller of the U.S. Fish and Wildlife Service, California/Nevada Operations Office, 2800 Cottage Way, W–2606, Sacramento, California 95825, (916) 414–6464. Dr. Mary Ellen Mueller is the designee of the committee's Federal Official—Steve Thompson, Manager of the U.S. Fish and Wildlife Service, California/Nevada Operations Office.

SUPPLEMENTARY INFORMATION: For background information and questions regarding the Trinity River Restoration Program, please contact Douglas Schleusner, Executive Director, Trinity River Restoration Program, P.O. Box 1300, 1313 South Main Street, Weaverville, California 96093, (530) 623–1800.

Dated: July 27, 2004.

D. Kenneth McDermond,

Manager, California/Nevada Operations Office, Sacramento, CA.

[FR Doc. 04–19704 Filed 8–27–04; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[ID–070–2824–JW PJ08]

Notice of Public Meeting, Upper Snake River Resource Advisory Council—Change of Location

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of public meeting, change of location.

SUMMARY: A **Federal Register** Notice (FR vol. 69, No. 148, page 46558) announcing the next Resource Advisory Council Meeting for the Upper Snake River District mistakenly listed the address for the September 8, 2004 meeting as Burley, Idaho. The correct location for the meeting is the BLM Upper Snake River District Office, 1405 Hollipark Drive, Idaho Falls, Idaho. All other information in the previous notice is correct.

FOR FURTHER INFORMATION CONTACT: David Howell, RAC Coordinator, Upper Snake River District, 1405 Hollipark Dr., Idaho Falls, ID 83401. Telephone (208) 524–7559.

Dated: August 24, 2004.

David O. Howell,

RAC Coordinator.

[FR Doc. 04–19706 Filed 8–27–04; 8:45 am]

BILLING CODE 4310–GG–P

DEPARTMENT OF THE INTERIOR

Minerals Management Service

Agency Information Collection Activities: Submitted for Office of Management and Budget (OMB) Review; Comment Request

AGENCY: Minerals Management Service (MMS), Interior.

ACTION: Notice of revision and extension of an information collection (1010–0043).

SUMMARY: To comply with the Paperwork Reduction Act of 1995 (PRA), we are notifying the public that we have submitted to OMB an information collection request (ICR) to renew approval of the paperwork

requirements in the regulations under "30 CFR 250, Subpart F, Oil and Gas Well-Workover Operations." This notice also provides the public a second opportunity to comment on the paperwork burden of these regulatory requirements.

DATES: Submit written comments by September 29, 2004.

ADDRESSES: You may submit comments either by fax (202) 395–6566 or email (*OIRA_DOCKET@omb.eop.gov*) directly to the Office of Information and Regulatory Affairs, OMB, Attention: Desk Officer for the Department of the Interior (1010–0043). Mail or hand carry a copy of your comments to the Department of the Interior; Minerals Management Service; Attention: Rules Processing Team; Mail Stop 4024; 381 Elden Street; Herndon, Virginia 20170–4817. If you wish to e-mail your comments to MMS, the address is: *rules.comments@mms.gov*. Reference Information Collection 1010–0043 in your subject line and mark your message for return receipt. Include your name and return address in your message text.

FOR FURTHER INFORMATION CONTACT: Arlene Bajusz, Rules Processing Team, (703) 787–1600. You may also contact Arlene Bajusz to obtain a copy, at no cost, of the regulations that require the subject collection of information.

SUPPLEMENTARY INFORMATION: *Title:* 30 CFR 250, subpart F, Oil and Gas Well-Workover Operations.

OMB Control Number: 1010–0043.

Abstract: The Outer Continental Shelf (OCS) Lands Act (43 U.S.C. 1331 *et seq.*), as amended, requires the Secretary of the Interior (Secretary) to preserve, protect, and develop sulphur resources on the OCS; make such resources available to meet the Nation's energy needs as rapidly as possible; balance orderly energy resources development with protection of the human, marine, and coastal environments; ensure the public a fair and equitable return on the resources offshore; and preserve and maintain free enterprise competition.

Section 5(a) of the OCS Lands Act requires the Secretary to prescribe rules and regulations "to provide for the prevention of waste, and conservation of the natural resources of the Outer Continental Shelf, and the protection of correlative rights therein" and to include provisions "for the prompt and efficient exploration and development of a lease area." These authorities and responsibilities are among those delegated to MMS under which we issue regulations to ensure that operations in the OCS will meet statutory requirements; provide for safety and protection of the environment; and result in diligent exploration, development, and production of OCS leases. This information collection request addresses the regulations at 30 CFR 250, subpart F, Oil and Gas Well-Workover Operations and the associated supplementary notices to lessees and operators intended to provide clarification, description, or explanation of these regulations.

MMS District Supervisors use the information collected to analyze and evaluate planned well-workover operations to ensure that operations result in personnel safety and protection of the environment. They use this evaluation in making decisions to approve, disapprove, or to require modification to the proposed well-workover operations. For example, MMS uses the information to:

- Review log entries of crew meetings to verify that safety procedures have been properly reviewed.
- Review well-workover procedures relating to hydrogen sulfide (H_2S) to ensure the safety of the crew in the event of encountering H_2S.
- Review well-workover diagrams and procedures to ensure the safety of well-workover operations.
- Verify that the crown block safety device is operating and can be expected to function and avoid accidents.
- Verify that the proposed operation of the annular preventer is technically correct and will provide adequate protection for personnel, property, and natural resources.
- Verify the reasons for postponing blowout preventer (BOP) tests, verify the state of readiness of the equipment and to ascertain that the equipment meets safety standards and requirements, ensure that BOP tests have been conducted in the manner and frequency to promote personnel safety and protect natural resources. Specific testing information must be recorded to verify that the proper test procedures were followed.
- Assure that the well-workover operations are conducted on well casing that is structurally competent.

Responses are mandatory. No questions of a "sensitive" nature are asked. MMS will protect proprietary information according to 30 CFR 250.196 (Data and information to be made available to the public) and 30 CFR part 252 (OCS Oil and Gas Information Program).

Frequency: The frequency varies by section, but is primarily monthly or on occasion.

Estimated Number and Description of Respondents: Approximately 130 Federal OCS oil and gas or sulphur lessees and operators.

Estimated Reporting and Recordkeeping "Hour" Burden: The estimated annual "hour" burden for this information collection is a total of 19,459 hours. The following chart details the individual components and estimated hour burdens. In calculating the burdens, we assumed that respondents perform certain requirements in the normal course of their activities. We consider these to be usual and customary and took that into account in estimating the burden.

Citation 30 CFR 250 subpart F	Reporting or recordkeeping requirement	Hour burden	Average No. annual responses	Annual burden hours
602	Request exceptions prior to moving well-workover equipment	1	372 request	372
602	Notify MMS of any rig movement within Gulf of Mexico (form MMS–144)..	Burden included in 1010–0150.		0
605; 613; 615(a)	Request approval to begin subsea well-workover operations; submit forms MMS–124 and MMS–125.	Burden included in 1010–0045 and 1010–0046		0
612	Request establishment/amendment/cancellation of field well-workover rules.	6	2	12
614	Post number of stands of drill pipe or workover string and drill collars that may be pulled prior to filling the hole and equivalent well-control fluid volume.	0.25	1,210 postings	303
616(a)	Request exception to rated working pressure of the BOP equipment; request exception to annular-type BOP testing.	2	121 requests	242

Citation 30 CFR 250 subpart F	Reporting or recordkeeping requirement	Hour burden	Average No. annual responses	Annual burden hours
617(b)	Pressure test, caliper, or otherwise evaluate tubing & wellhead equipment casing; submit results (every 30 days during prolonged operations).	6	61 reports	366
617(c)	Notify MMS if sustained casing pressure is observed on a well	0.5	830 notifications	415
600–618	General departure and alternative compliance requests not specifically covered elsewhere in subpart F regulations.	2	25 requests	50
	Subtotal—Reporting		2,621	1,760
606	Instruct crew members in safety requirments of operations to be performed; document meeting (weekly for 2 crews ×2 weeks per workover = 4).	1	780 workovers × 4 = 3,120.	3,120
611	Perform operational check of traveling-block safety device; document results (weekly × 2 weeks per workover = 2).	1	665 workovers × 2 = 1,330.	1,330.
616(a), (b), (d), (e)	Perform BOP pressure tests, actuations, inspections & certifications; record results; retain records 2 years following completion of workover activities (when installed; at a minimum every 7 days × 2 weeks per workover = 2).	7	665 workovers × 2 = 1,330.	9,310
616(b)(2)	Test blind or blind-shear rams; document workovers results (every 30 days during operations). (Note: this is part of BOP test when BOP test is conducted.).	1	780 workovers	780
616(b)(2)	Record reason for postponing BOP system tests	0.5	78 postponed tests	39
616(c)	Perform crew drills; record results (weekly for 2 crews × 2 weeks per workover = 4).	1	780 workovers × 4 = 3,120.	3,120
	Subtotal—Recordkeeping		9,758	17,699
	Total Hour Burden		12,379	19,459

Estimated Reporting and Recordkeeping "Non-Hour Cost" Burden: We have identified no "non-hour cost" burdens.

Public Disclosure Statement: The PRA (44 U.S.C. 3501, *et seq.*) provides that an agency may not conduct or sponsor a collection of information unless it displays a currently valid OMB control number. Until OMB approves a collection of information, you are not obligated to respond.

Comments: Section 3506(c)(2)(A) of the PRA (44 U.S.C. 3501, *et seq.*) requires each agency "* * * to provide notice * * * and otherwise consult with members of the public and affected agencies concerning each proposed collection of information * * *" Agencies must specifically solicit comments to: (a) Evaluate whether the proposed collection of information is necessary for the agency to perform its duties, including whether the information is useful; (b) evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) enhance the quality, usefulness, and clarity of the information to be collected; and (d) minimize the burden on the respondents, including the use of automated collection techniques or other forms of information technology.

To comply with the public consultation process, on December 24, 2003, we published a **Federal Register** notice (68 FR 74645) announcing that we would submit this ICR to OMB for approval. The notice provided the required 60-day comment period. In addition, 250.199 provides the OMB control number for the information collection requirements imposed by the 30 CFR 250 regulations and forms. The regulation also informs the public that they may comment at any time on the collections of information and provides the address to which they should send comments. We have received no comments in response to these efforts.

If you wish to comment in response to this notice, you may send your comments to the offices listed under the **ADDRESSES** section of this notice. OMB has up to 60 days to approve or disapprove the information collection but may respond after 30 days. Therefore, to ensure maximum consideration, OMB should receive public comments by September 29, 2004.

Public Comment Policy: MMS's practice is to make comments, including names and addresses of respondents, available for public review during regular business hours. If you wish your name and/or address to be withheld, you must state this prominently at the beginning of your comment. MMS will honor the request to the extent allowable by the law; however, anonymous comments will not be considered. All submissions from organizations or businesses, and from individuals identifying themselves as representatives or officials of organizations or businesses, will be made available for public inspection in their entirety.

MMS Federal Register Liaison Officer: Denise Johnson (202) 208–3976.

Dated: May 11, 2004.

E.P. Danenberger,

Chief, Engineering and Operations Division.

[FR Doc. 04–19648 Filed 8–27–04; 8:45 am]

BILLING CODE 4310–MR–P

DEPARTMENT OF THE INTERIOR

Minerals Management Service

Agency Information Collection Activities: Submitted for Office of Management and Budget (OMB) Review; Comment Request

AGENCY: Minerals Management Service (MMS), Interior.

ACTION: Notice of extension of an information collection (1010–0067).

SUMMARY: To comply with the Paperwork Reduction Act of 1995 (PRA), we are notifying the public that we have submitted to OMB an information collection request (ICR) to renew approval of the paperwork requirements in the regulations under "30 CFR 250, Subpart E, Oil and Gas Well-Completion Operations," and

related documents. This notice also provides the public a second opportunity to comment on the paperwork burden of these regulatory requirements.

DATES: Submit written comments by September 29, 2004.

ADDRESSES: You may submit comments either by fax (202) 395–6566 or email (*OIRA_DOCKET@omb.eop.gov*) directly to the Office of Information and Regulatory Affairs, OMB, Attention: Desk Officer for the Department of the Interior (1010–0067). Mail or hand carry a copy of your comments to the Department of the Interior; Minerals Management Service; Attention: Rules Processing Team; Mail Stop 4024; 381 Elden Street; Herndon, Virginia 20170–4817. If you wish to email your comments to MMS, the address is: *rules.comments@mms.gov*. Reference Information Collection 1010–0067 in your subject line and mark your message for return receipt. Include your name and return address in your message text.

FOR FURTHER INFORMATION CONTACT: Cheryl Blundon, Rules Processing Team, telephone (703) 787–1600. You may also contact Cheryl Blundon to obtain a copy, at no cost, of the regulations that require the subject collection of information.

SUPPLEMENTARY INFORMATION:

Title: 30 CFR 250, Subpart E, Oil and Gas Well-Completion Operations.

OMB Control Number: 1010–0067.

Abstract: The Outer Continental Shelf (OCS) Lands Act, as amended (43 U.S.C. 1331 *et seq.* and 43 U.S.C. 1801 *et seq.*), authorizes the Secretary of the Interior (Secretary) to preserve, protect, and develop oil and gas resources in the OCS; make such resources available to meet the Nation's energy needs as rapidly as possible; balance orderly energy resources development with protection of the human, marine, and coastal environment; ensure the public a fair and equitable return on resources offshore; and preserve and maintain free enterprise competition. Section 1332(6) of the OCS Lands Act (43 U.S.C. 1332) requires that "operations in the [O]uter Continental Shelf should be conducted in a safe manner by well-trained personnel using technology, precautions, and techniques sufficient to prevent or minimize the likelihood of blowouts, loss of well control, fires, spillages, physical obstruction to other users of the waters or subsoil and seabed, or other occurrences which may cause damage to the environment or to property, or endanger life or health." This authority and responsibility are among those delegated to MMS. To carry out these responsibilities, MMS issues regulations governing oil and gas and sulphur operations in the OCS. This collection of information addresses 30 CFR part 250, Subpart E, Oil and Gas Well-Completion Operations.

The MMS District Supervisors analyze and evaluate the information and data collected under Subpart E to ensure that planned well-completion operations will protect personnel safety and natural resources. They use the analysis and evaluation results in the decision to approve, disapprove, or require modification to the proposed well-completion operations. Specifically, MMS uses the information to ensure: (a) Compliance with personnel safety training requirements; (b) crown block safety device is operating and can be expected to function to avoid accidents; (c) proposed operation of the annular preventer is technically correct and provides adequate protection for personnel, property, and natural resources; (d) well-completion operations are conducted on well casings that are structurally competent; and (e) sustained casing pressures are within acceptable limits. The MMS district and regional offices plan to issue an NTL, in the future, and they will use paperwork requirements in this new proposed Gulf of Mexico Region NTL to determine that production from wells with SCP continues to afford the greatest possible degree of safety under these conditions.

Responses are mandatory. No questions of a "sensitive" nature are asked. MMS will protect proprietary information according to 30 CFR 250.196 (Data and information to be made available to the public) and 30 CFR part 252 (OCS Oil and Gas Information Program).

Frequency: Varies by section, but is mostly "on occasion" or annual.

Estimated Number and Description of Respondents: Approximately 130 Federal OCS oil and gas or sulphur lessees.

Estimated Annual Reporting and Recordkeeping "Hour" Burden: The following chart details the components of the information collection requirements in subpart E, which we estimate to be a total of 11,995 burden hours. In estimating the burden, we assumed that respondents perform certain requirements in the normal course of their activities. We consider these to be usual and customary and took that into account in estimating the burden.

Citation 30 CFR 250 subpart E & LTL/NTL sec.	Reporting & recordkeeping (R/K) requirement	Burden per requirement	Average annual responses	Annual burden hours
502	Request approval not to shut-in well during equipment movement.	1 hour	45 requests	45
502	Notify MMS of well-completion rig movement on or off platform or from well to well on same platform (form MMS–144).	Burden covered under 1010–0150		0
505; 513; 515(a); 516(g), (j);.	Submit forms MMS–123, MMS–124, MMS–125 for various approvals, including remediation procedure for SCP.	Burden covered under 1010–0044, 1010–0045, 1010–0046		0
512	Request field well-completion rules be established and canceled (on occasion, however, there have been no requests in many years).	1 hour	2 requests	2
515(a)	Submit well-control procedure	1 hour	16 procedures	16
517(b)	Pressure test, caliper, or otherwise evaluate tubing & wellhead equipment casing; submit results (every 30 days during prolonged operations).	9 hours	399 reports	3,591
517(c); LTL*/ NTL	Notify MMS if sustained casing pressure is observed on a well	¼ hour	513 notices	129
LTL/NTL	Report failure of casing pressure to bleed to zero including plan to remediate.	4 hours	1,002 submissions	4,008
LTL/NTL	Notify MMS when remediation procedure is complete	1 hour	11 notices	11
Future NTL	Appeal departure request denial according to 30 CFR Part 290.	Burden covered 1010–0121		0

Citation 30 CFR 250 subpart E & LTL/NTL sec.	Reporting & recordkeeping (R/K) requirement	Burden per requirement	Average annual responses	Annual burden hours
500–517	General departure and alternative compliance requests not specifically covered elsewhere in Subpart E regulations.	2 hours	264 requests	528
	Subtotal—Reporting		2,252	8,330
506	Instruct crew members in safety requirements of operations to be performed; document meeting (weekly for 2 crews × 2 weeks per completion = 4).	20 minutes	810 completions × 4 = 3,240.	1,080
511	Perform operational check of traveling-block safety device; document results (weekly × 2 weeks per completion = 2).	6 minutes	810 completions × 2 = 1,620.	162
516 tests; 516(i),(j)	Record BOP test results; retain records 2 years following completion of well (when installed; minimum every 7 days; as stated for component).	¼ hour	810 completions	203
516(d)(5) test; 516(i)	Function test annulars and rams; document results (every 7 days between BOP tests—biweekly; note: part of BOP test when conducted).	½ hour	810 completions	405
516(e)	Record reason for postponing BOP system tests (on occasion)	10 minutes	46 postponed tests	8
516(f)	Perform crew drills; record results (weekly for 2 crews × 2 weeks per completion = 4).	½ hour	810 completions × 4 = 3,240.	1,620
LTL	Retain complete record of well's casing pressure for 2 years and retain diagnostic test records permanently.	¼ hour	134 records	34
LTL	Record diagnostic test results	¼ hours	610 tests/recordings	153
	Subtotal—Recordkeeping		10,510	3,665
	Total Hour Burden		12,762	11,995

*LTL dated 13 January 1994.

Estimated Annual Reporting and Recordkeeping "Non-Hour Cost" Burden: We have identified no paperwork "non-hour cost" burdens associated with the collection of information.

Public Disclosure Statement: The PRA (44 U.S.C. 3501, *et seq.*) provides that an agency may not conduct or sponsor a collection of information unless it displays a currently valid OMB control number. Until OMB approves a collection of information, you are not obligated to respond.

Comments: Section 3506(c)(2)(A) of the PRA (44 U.S.C. 3501, *et seq.*) requires each agency "* * * to provide notice * * * and otherwise consult with members of the public and affected agencies concerning each proposed collection of information * * *" Agencies must specifically solicit comments to: (a) Evaluate whether the proposed collection of information is necessary for the agency to perform its duties, including whether the information is useful; (b) evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) enhance the quality, usefulness, and clarity of the information to be collected; and (d) minimize the burden on the respondents, including the use of automated collection techniques or other forms of information technology.

To comply with the public consultation process, on February 27, 2004, we published a **Federal Register** notice (69 FR 9367) announcing that we would submit this ICR to OMB for approval. The notice provided the required 60-day comment period. In addition, 250.199 provides the OMB control number for the information collection requirements imposed by the 30 CFR 250 regulations and forms. The regulation also informs the public that they may comment at any time on the collections of information and provides the address to which they should send comments. We have received no comments in response to these efforts.

If you wish to comment in response to this notice, you may send your comments to the offices listed under the **ADDRESSES** section of this notice. OMB has up to 60 days to approve or disapprove the information collection but may respond after 30 days. Therefore, to ensure maximum consideration, OMB should receive public comments by September 29, 2004.

Public Comment Policy: MMS's practice is to make comments, including names and addresses of respondents, available for public review during regular business hours. If you wish your name and/or address to be withheld, you must state this prominently at the beginning of your comment. MMS will honor the request to the extent allowable by the law; however, anonymous comments will not be considered. All submissions from organizations or businesses, and from individuals identifying themselves as representatives or officials of organizations or businesses, will be made available for public inspection in their entirety.

Information Collection Clearance Officer: Arlene Bajusz (202) 208–7744.

Dated: May 18, 2004.

E.P. Danenberger,

Chief, Engineering and Operations Division.

[FR Doc. 04–19649 Filed 8–27–04; 8:45 am]

BILLING CODE 4310–MR–P

DEPARTMENT OF THE INTERIOR

Minerals Management Service

Agency Information Collection Activities: Submitted for Office of Management and Budget (OMB) Review; Comment Request

AGENCY: Minerals Management Service (MMS), Interior.

ACTION: Notice of extension of an information collection (1010–0086).

SUMMARY: To comply with the Paperwork Reduction Act of 1995 (PRA), we are notifying the public that we have submitted to OMB an information collection request (ICR) to renew approval of the paperwork requirements in the regulations under 30 CFR 250, subpart P, "Sulphur Operations," and related documents. This notice also provides the public a

second opportunity to comment on the paperwork burden of these regulatory requirements.

DATES: Submit written comments by September 29, 2004.

ADDRESSES: You may submit comments either by fax (202) 395–6566 or e-mail (*OIRA_DOCKET@omb.eop.gov*) directly to the Office of Information and Regulatory Affairs, OMB, Attention: Desk Officer for the Department of the Interior (1010–0086). Mail or hand carry a copy of your comments to the Department of the Interior; Minerals Management Service; Attention: Rules Processing Team; Mail Stop 4024; 381 Elden Street; Herndon, Virginia 20170–4817. If you wish to e-mail your comments to MMS, the address is: *rules.comments@mms.gov*. Reference Information Collection 1010–0086 in your subject line and mark your message for return receipt. Include your name and return address in your message text.

FOR FURTHER INFORMATION CONTACT: Cheryl Blundon, Rules Processing Team, (703) 787–1600. You may also contact Cheryl Blundon to obtain a copy, at no cost, of the regulations that require the subject collection of information.

SUPPLEMENTARY INFORMATION:

Title: 30 CFR 250, Subpart P, Sulphur Operations.

OMB Control Number: 1010–0086.

Abstract: The Outer Continental Shelf (OCS) Lands Act, as amended (43 U.S.C. 1331 *et seq.* and 43 U.S.C. 1801 *et seq.*), authorizes the Secretary of the Interior (Secretary) to preserve, protect, and develop sulphur resources on the OCS; make such resources available to meet the Nation's energy needs as rapidly as possible; balance orderly energy resources development with protection of the human, marine, and coastal environments; ensure the public a fair and equitable return on the resources offshore; and preserve and maintain free enterprise competition. Section 5(a) of the OCS Lands Act requires the Secretary to prescribe rules and regulations "to provide for the prevention of waste, and conservation of the natural resources of the Outer Continental Shelf, and the protection of correlative rights therein" and to include provisions "for the prompt and efficient exploration and development of a lease area." These authorities and responsibilities are among those delegated to MMS under which we issue regulations to ensure that operations in the OCS will meet statutory requirements; provide for safety and protection of the environment; and result in diligent exploration, development, and production of OCS leases. This information collection request addresses the regulations at 30 CFR 250, subpart P, Sulphur Operations, and the associated supplementary notices to lessees and operators intended to provide clarification, description, or explanation of these regulations.

The MMS uses the information collected to ascertain the condition of drilling sites for the purpose of preventing hazards inherent in drilling and production operations and to evaluate the adequacy of equipment and/or procedures to be used during the conduct of drilling, well-completion, well-workover, and production operations. For example, MMS uses the information to:

- Ascertain that a discovered sulphur deposit can be classified as capable of production in paying quantities.
- Ensure accurate and complete measurement of production to determine the amount of sulphur royalty payments due the United States; and that the sale locations are secure, production has been measured accurately, and appropriate follow-up actions are initiated.
- Ensure that the drilling unit is fit for the intended purpose.
- Review expected oceanographic and meteorological conditions to ensure the integrity of the drilling unit (this information is submitted only if it is not otherwise available).
- Review hazard survey data to ensure that the lessee will not encounter geological conditions that present a hazard to operations.
- Ensure the adequacy and safety of firefighting plans.
- Ensure the adequacy of casing for anticipated conditions.
- Review log entries of crew meetings to verify that crew members are properly trained.
- Review drilling, well-completion, and well-workover diagrams and procedures to ensure the safety of the proposed drilling, well-completion, and well-workover operations.
- Review production operation procedures to ensure the safety of the proposed production operations.
- Monitor environmental data during operations in offshore areas where such data are not already available to provide a valuable source of information to evaluate the performance of drilling rigs under various weather and ocean conditions. This information is necessary to make reasonable determinations regarding safety of operations and environmental protection.

Responses are mandatory. No questions of a "sensitive" nature are asked. MMS will protect proprietary information according to 30 CFR 250.196 (Data and information to be made available to the public) and 30 CFR Part 252 (OCS Oil and Gas Information Program).

Frequency: The frequency varies by section, but is generally "on occasion".

Estimated Number and Description of Respondents: Approximately 1 Federal OCS sulphur lessee.

Estimated Annual Reporting and Recordkeeping "Hour" Burden: The following chart details the components of the hour burden for the information collection requirements in Subpart P—an estimated total of 903 burden hours. In estimating the burdens, we assumed that respondents perform certain requirements in the normal course of their activities. We consider these to be usual and customary and took that into account in estimating the burden.

Citation 30 CFR 250 subpart P	Reporting or recordkeeping requirement	Hour burden	Average No. annual responses	Annual burden hours
1600	Submit exploration or development and production plan	Burden included under 30 CFR 250, Subpart B (1010–0049).		0
1603(a)	Request determination whether sulphur deposit can produce in paying quantities.	1	1 request	1
1605(b)(3)	Submit data and information on fitness of drilling unit	4	1 submission	4
1605(c)	Report oceanographic, meteorological, and drilling unit performance data upon request*.	1	1 report	1
1605(d)	Submit results of additional surveys and soil borings upon request*.	1	1 submission	1
1605(e)(5)	Request copy of directional survey (by holder of adjoining lease)*.	1	1 request	1

Citation 30 CFR 250 subpart P	Reporting or recordkeeping requirement	Hour burden	Average No. annual responses	Annual burden hours
1605(f)	Submit application for installation of fixed drilling platforms or structures.	Burden included under 30 CFR 250, Subpart I (1010–0058)		0
1607	Request establishment, amendment, or cancellation of field rules for drilling, well-completion, or well-workover.	8	2 requests	16
1608	Submit well casing and cementing plan or modification	5	1 plan	5
1610(d)(8)	Request exception to ram-type blowout preventer (BOP) system components rated working pressure.	1	1 request	1
1611(b); 1625(b)	Request exception to water-rated working pressure to test ram-type and annular BOPs and choke manifold.	1	1 request	1
1611(f); 1625(f)	Request exception to recording pressure conditions during BOP tests on pressure charts*.	1	1 request	1
1612	Request exception to § 250.408 requirements for well-control drills*.	1	1 request	1
1615	Request exception to blind-shear ram or pipe rams and inside BOP to secure wells.	1	1 request	1
1617; 1618; 1619(b); 1622.	Submit forms MMS–123 (Application for Permit to Drill), MMS–124 (Sundry Notices and Reports on Wells), Form MMS–125 (Well Summary Report).	Burden included with forms: MMS–123 (1010–0044); MMS–124 (1010–0045); MMS–125 (1010–0046)		0
1619(c), (d), (e)	Submit copies of records, logs, reports, charts, etc., upon request.	1	8 submissions	8
1628(b), (d)	Submit application for design and installation features of sulphur production facilities and fuel gas safety system; certify new installation conforms to approved design.	4	1 application	4
1629(b)(3)	Request approval of firefighting systems	4	1 request	4
1630(a)(5)	Notify MMS of pre-production test and inspection of safety system and commencement of production.	½	2 notifications	1
1633(b)	Submit application for method of production measurement	2	1 application	2
1634(b)	Report evidence of mishandling of produced sulphur or tampering or falsifying any measurement of production.	1	1 report	1
1600 thru 1634	General departure and alternative compliance requests not specifically covered elsewhere in Subpart P.	2	1 request	2
	Subtotal—Reporting		28	56
1604(f)	Check traveling-block safety device for proper operation weekly and after each drill-line slipping; enter results in log.	¼	1 lessee × 52 × 2 rigs = 104.	26
1609(a)	Pressure test casing; record time, conditions of testing, and test results in log.	2	1 lessee × 60 tests/records = 60.	120
1611(d)(3); 1625(c)(3)	Record in driller's report the date, time, and reason for postponing pressure testings.	10 minutes	1 lessee × 6 recordings = 6.	1
1611(f), (g); 1625(f), (g).	Conduct tests, actuations, inspections, maintenance, and crew drills of BOP systems at least weekly; record results in driller's report; retain records for 2 years following completion of drilling activity.	6	1 lessee × 52 weeks = 52.	312
1613(e)	Pressure test diverter sealing element/valves weekly; actuate diverter sealing element/valves/control system every 24 hours; test diverter line for flow every 24 hours; record test times and results in driller's report.	2	1 lessee on occasion (daily/weekly during drilling) 2 rigs × 52 weeks = 104.	208
1616(c)	Retain training records for lessee and drilling contractor personnel.	Burden included under 30 CFR 250, Subpart O (1010–0128)		0
1619(a)	Retain records for each well and all well operations for 2 years	12	1 lessee	12
1621	Conduct safety meetings prior to well-completion or well-workover operations; record date and time.	1	1 lessee × 50 meetings/records = 50.	50
1628(d)	Maintain information on approved design and installation features for the life of the facility.	1	1 lessee	1
1629(b)(1)(ii) and (iii)	Retain pressure-recording charts used to determine operating pressure ranges for 2 years; post firefighting system diagram.	12	1 lessee	12
1630(b)	Maintain records for each safety device installed for 2 years	1	1 lessee	1
1631	Conduct safety device training prior to production operations and periodically thereafter; record date and time.	1	1 lessee × 52 training/records × 2 rigs = 104.	104
	Subtotal—Recordkeeping		1 Recordkeeper	847
	Total Burden		29	903

*We included a minimal burden, but it has not been necessary to request these data and/or no submissions received for many years.

Estimated Annual Reporting and Recordkeeping "Non-Hour Cost"

Burden: We have identified no "non-hour cost" burdens.

Comments: Section 3506(c)(2)(A) of the PRA (44 U.S.C. 3501, *et seq.*) requires each agency "* * * to provide

notice * * * and otherwise consult with members of the public and affected agencies concerning each proposed collection of information * * *" Agencies must specifically solicit comments to: (a) Evaluate whether the proposed collection of information is necessary for the agency to perform its duties, including whether the information is useful; (b) evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) enhance the quality, usefulness, and clarity of the information to be collected; and (d) minimize the burden on the respondents, including the use of automated collection techniques or other forms of information technology.

To comply with the public consultation process, on February 13, 2004, we published a **Federal Register** notice (69 FR 7250) announcing that we would submit this ICR to OMB for approval. The notice provided the required 60-day comment period. In addition, 250.199 displays the OMB control numbers for the information collection requirements imposed by the 30 CFR part 250 regulations and forms. The regulation also informs the public that they may comment at any time on the collections of information and provides the address to which they should send comments. We have received no comments in response to these efforts.

If you wish to comment in response to this notice, send your comments directly to the offices listed under the **ADDRESSES** section of this notice. The OMB has up to 60 days to approve or disapprove the information collection but may respond after 30 days. Therefore, to ensure maximum consideration, OMB should receive public comments by September 29, 2004.

Public Comment Policy: MMS's practice is to make comments, including names and addresses of respondents, available for public review during regular business hours. If you wish your name and/or address to be withheld, you must state this prominently at the beginning of your comment. MMS will honor the request to the extent allowable by the law; however, anonymous comments will not be considered. All submissions from organizations or businesses, and from individuals identifying themselves as representatives or officials of organizations or businesses, will be made available for public inspection in their entirety.

MMS Information Collection Officer: Arlene Bajusz (202) 208–7744.

Dated: May 25, 2004.

E.P. Danenberger,

Chief, Engineering and Operations Division.

[FR Doc. 04–19650 Filed 8–27–04; 8:45 am]

BILLING CODE 4310–MR–P

DEPARTMENT OF THE INTERIOR

Minerals Management Service

Agency Information Collection Activities: Submitted for Office of Management and Budget (OMB) Review; Comment Request

AGENCY: Minerals Management Service (MMS), Interior.

ACTION: Notice of an extension of a currently approved information collection (OMB Control Number 1010–0110).

SUMMARY: To comply with the Paperwork Reduction Act of 1995 (PRA), we are notifying the public that we have submitted to OMB an information collection request (ICR) to renew approval of the paperwork requirements in accordance with Executive Order 12862, dated September 11, 1993, Setting Customer Service Standards. This notice also provides the public a second opportunity to comment on the paperwork burden of these requirements. The ICR is titled "Training and Outreach Evaluation Form (Form MMS–4420A–E)." We changed the title of this ICR because we reorganized the parts of the form. The previous title was "Training and Outreach Evaluation Form (Form MMS–4420A–H."

DATES: Submit written comments on or before September 29, 2004.

ADDRESSES: Submit written comments by either FAX (202) 395–6566 or e-mail (*OIRA_Docket@omb.eop.gov*) directly to the Office of Information and Regulatory Affairs, OMB, Attention: Desk Officer for the Department of the Interior (OMB Control Number 1010–0110). Mail or hand-carry a copy of your comments to Sharron L. Gebhardt, Lead Regulatory Specialist, Minerals Management Service, Minerals Revenue Management, P.O. Box 25165, MS 302B2, Denver, Colorado 80225. If you use an overnight courier service, our courier address is Building 85, Room A–614, Denver Federal Center, Denver, Colorado 80225. You may also e-mail your comments to us at *mrm.comments@mms.gov*. Include the title of the information collection and the OMB Control Number in the "Attention" line of your comment. Also include your name and return address. Submit electronic comments as an ASCII file avoiding the use of special characters and any form of encryption. If you do not receive a confirmation that we have received your e-mail, contact Ms. Gebhardt at (303) 231–3211.

FOR FURTHER INFORMATION CONTACT: Sharron L. Gebhardt, telephone (303) 231–3211, FAX (303) 231–3781, e-mail *Sharron.Gebhardt@mms.gov*. You may also contact Sharron Gebhardt to obtain a copy of the Form MMS–4420A–E at no cost.

SUPPLEMENTARY INFORMATION:

Title: "Training and Outreach Evaluation Form (Form MMS–4420A–E)."

OMB Control Number: 1010–0110.

Bureau Form Number: Form MMS–4420A–E.

Abstract: The Department of the Interior is responsible for matters relevant to mineral resource development on Federal and Indian lands and the Outer Continental Shelf (OCS). The Secretary of the Department of the Interior under The Mineral Leasing Act (30 U.S.C. 1923) and The Outer Continental Shelf Lands Act (43 U.S.C. 1353) is responsible for managing the production of minerals from Federal and Indian lands and the OCS, collecting royalties from lessees who produce minerals, and distributing the funds collected in accordance with applicable laws. The Secretary has an Indian trust responsibility to manage Indian lands and seek advice and information from Indian beneficiaries. The MMS performs the royalty management functions and assists the Secretary in carrying out the Department's Indian trust responsibility.

The MMS frequently provides training and outreach sessions to its constituents to facilitate their compliance with laws and regulations and to ensure that they are well informed. We present training sessions to oil and gas and solid minerals reporters on various aspects of royalty reporting, production reporting, and valuation. Additionally, we provide training sessions to our financial and systems contractors and State and tribal auditors. We use training and outreach evaluation forms to survey our customers and to improve our training and outreach efforts, as directed in Executive Order 12862, Setting Customer Service Standards (September 11, 1993).

We ask participants to complete and return evaluation forms during the last few minutes of each training or outreach session. Participant response is voluntary. Some questions are uniform across all of the evaluation forms; however, some questions are specific to

the audience or to each type of training or outreach.

The MMS collects this information using our Training and Outreach Evaluation Form MMS–4420, which we have modified and reorganized. We combined in-house training evaluation under one part. We deleted the Indian outreach evaluation because MMS is currently working with Departmental bureaus and offices to implement the Department's Comprehensive Trust Management Plan. The MMS will be involved in a Department-wide outreach process for American Indian beneficiaries, and any Indian outreach evaluation form will be developed and coordinated with the other bureaus for Department-wide use.

The MMS is requesting OMB's approval to continue to collect information relevant to our training and outreach efforts. Not collecting this information would limit our ability to obtain feedback and to improve our training and outreach, which could affect our customers' knowledge of laws and regulations and their ability to comply.

No proprietary information is submitted, and no questions of a sensitive nature are included in this information collection. The requirement to respond is voluntary.

Frequency: On occasion.

Estimated Number and Description of Respondents: 950 industry representatives, State and tribal auditors, and MMS contractors.

Estimated Annual Reporting and Recordkeeping "Hour" Burden: 95 hours.

We are reducing the number of burden hours from the current OMB inventory of 126 hours to 95 hours. This reduction reflects a decrease in the number of responses, which is primarily the result of deleting the Indian outreach evaluation.

Estimated Annual Reporting and Recordkeeping "Non-hour" Cost Burden: We have identified no "non-hour" cost burdens.

Public Disclosure Statement: The PRA (44 U.S.C. 3501, *et seq.*) provides that 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.

Comments: Section 3506(c)(2)(A) of the PRA requires each agency "* * * to provide notice * * * and otherwise consult with members of the public and affected agencies concerning each proposed collection of information * * *." Agencies must specifically solicit comments to: (a) Evaluate whether the proposed collection of information is necessary for the agency to perform its duties, including whether the information is useful; (b) evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) enhance the quality, usefulness, and clarity of the information to be collected; and (d) minimize the burden on the respondents, including the use of automated collection techniques or other forms of information technology.

To comply with the public consultation process, we published a notice in the **Federal Register** on December 29, 2003 (68 FR 74968), announcing that we would submit this ICR to OMB for approval. The notice provided the required 60-day comment period. We received no comments in response to the notice.

If you wish to comment in response to this notice, you may send your comments to the offices listed under the **ADDRESSES** section of this notice. OMB has up to 60 days to approve or disapprove the information collection but may respond after 30 days. Therefore, to ensure maximum consideration, OMB should receive public comments by September 29, 2004.

Public Comment Policy: We will post all comments in response to this notice on our Web site at *http://www.mrm.mms.gov/Laws_R_D/InfoColl/InfoColCom.htm.* We will also make copies of the comments available for public review, including names and addresses of respondents, during regular business hours at our offices in Lakewood, Colorado. Upon request, we will withhold an individual respondent's home address from the public record, as 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 request that we withhold your name and/or address, state your request 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.

MMS Information Collection Clearance Officer: Arlene Bajusz (202) 208–7744.

Dated: May 21, 2004.

Richard Adamski,

Acting Associate Director for Minerals Revenue Management.

[FR Doc. 04–19651 Filed 8–27–04; 8:45 am]

BILLING CODE 4310–MR–P

DEPARTMENT OF THE INTERIOR

Minerals Management Service

Agency Information Collection Activities: Submitted for Office of Management and Budget (OMB) Review; Comment Request

AGENCY: Minerals Management Service (MMS), Interior.

ACTION: Notice of a revision of a currently approved information collection (OMB Control Number 1010–0120).

SUMMARY: To comply with the Paperwork Reduction Act of 1995 (PRA), we are notifying the public that we have submitted to OMB an information collection request (ICR) to renew approval of the paperwork requirements in the regulations under 30 CFR parts 206, 210, and 218. This notice also provides the public a second opportunity to comment on the paperwork burden of these regulatory requirements. The ICR is titled "30 CFR Part 206, Subpart F—Federal Coal and Subpart J—Indian Coal; Part 210, Subpart B—Oil, Gas, and OCS Sulfur—General, Subpart E—Solid Minerals, General, and Subpart H—Geothermal Resources; and Part 218, Subpart B—Oil and Gas, General, and Subpart E—Solid Minerals—General (Form MMS–4430, Solid Minerals Production and Royalty Report)." We changed the title of this ICR to clarify the regulatory language we are covering under 30 CFR parts 206, 210, and 218. The previous title was "Solid Minerals Compliance and Management Process (Form MMS–4430)."

DATES: Submit written comments on or before September 29, 2004.

ADDRESSES: Submit written comments by either FAX (202) 395–6566 or e-mail (*OIRA_Docket@omb.eop.gov*) directly to the Office of Information and Regulatory Affairs, OMB, Attention: Desk Officer for the Department of the Interior (OMB Control Number 1010–0120). Mail or hand-carry a copy of your comments to Sharron L. Gebhardt, Lead Regulatory Specialist, Minerals Management Service, Minerals Revenue Management, P.O. Box 25165, MS 302B2, Denver, Colorado 80225. If you use an overnight courier service, our courier address is Building 85, Room A–614, Denver

Federal Center, Denver, Colorado 80225. You may also e-mail your comments to us at *mrm.comments@mms.gov*. Include the title of the information collection and the OMB Control Number in the "Attention" line of your comment. Also include your name and return address. Submit electronic comments as an ASCII file avoiding the use of special characters and any form of encryption. If you do not receive a confirmation that we have received your e-mail, contact Ms. Gebhardt at (303) 231–3211.

FOR FURTHER INFORMATION CONTACT: Sharron L. Gebhardt, telephone (303) 231–3211, FAX (303) 231–3781, e-mail *Sharron.Gebhardt@mms.gov*. You may also contact Sharron Gebhardt to obtain a copy at no cost of the form and regulations that require the subject collection of information.

SUPPLEMENTARY INFORMATION:

Title: 30 CFR part 206, subpart F—Federal Coal and subpart J—Indian Coal; part 210, subpart B—Oil, Gas, and OCS Sulfur—General, subpart E—Solid Minerals, General, and subpart H—Geothermal Resources; and part 218, subpart B—Oil and Gas, General, and subpart E—Solid Minerals—General (Form MMS–4430, Solid Minerals Production and Royalty Report).

OMB Control Number: 1010–0120.

Bureau Form Number: Form MMS–4430.

Abstract: The Secretary of the U.S. Department of the Interior is responsible for matters relevant to mineral resource development on Federal and Indian lands and the Outer Continental Shelf (OCS). The Secretary under the Mineral Leasing Act (30 U.S.C. 1923) and the Outer Continental Shelf Lands Act (43 U.S.C. 1353) is responsible for managing the production of minerals from Federal and Indian lands and the OCS, collecting royalties from lessees who produce minerals, and distributing the funds collected in accordance with applicable laws.

The Secretary also has an Indian trust responsibility to manage Indian lands and seek advice and information from Indian beneficiaries. The MMS performs the royalty management functions and assists the Secretary in carrying out the Department's Indian trust responsibility.

This ICR provides for the collection of solid minerals information. The lessees, operators, or other directly involved persons described at 30 U.S.C. 1713 are required to make reports and provide reasonable information as defined by the Secretary regarding solid minerals production. Other citations supporting the reporting requirement include 30 U.S.C. 189 pertaining to Public Lands, 30 U.S.C. 359 pertaining to Acquired Lands, 25 U.S.C. 396d pertaining to Indian Lands, and 43 U.S.C. 1334 pertaining to Outer Continental Shelf Lands.

When a company or an individual enters into a lease to explore, develop, produce, and dispose of minerals from Federal or Indian lands, that company or individual agrees to report and pay the lessor royalty and any lease level obligations required in the lease terms. The lease creates a business relationship between the lessor and the lessee. The lessee is required to report various kinds of information to the lessor relative to the disposition of the leased minerals. Such information is similar to data reported to private and public mineral interest owners and is generally available within the records of the lessee or others involved in developing, transporting, processing, purchasing, or selling of such minerals. The information collected includes data necessary to ensure the royalties and lease level obligations are reported and paid appropriately.

Minerals produced from Federal and Indian leases vary greatly in the nature of occurrence, production and processing methods, and markets served. Also, lease terms, statutory requirements, and regulations vary significantly among the different solid minerals.

The MMS requires the submission of data on Form MMS–4430, Solid Minerals Production and Royalty Report, and on other associated data formats described below. The MMS uses these various types of data to fulfill our financial and compliance mission requirements. The current information collection requirements provide MMS with the ability to verify that revenue due the Government is reported and paid correctly and timely under applicable laws, regulations, and lease terms. It also provides MMS with the ability to timely disburse mineral revenues to the correct recipients. The MMS collects solid minerals production and royalty data on Form MMS–4430, along with associated sales summaries, facility data, sales contracts, payment information, and additional documents.

Specific lease language varies; however, respondents agree by the lease terms to furnish statements providing the details of all operations conducted on a lease and mine level, and the quantity and quality of all production from the lease and mine at such times and in such form as the Secretary may prescribe. Currently, rules require respondents to provide accurate, complete, and timely reports for all minerals produced, in the manner and form prescribed by MMS in 30 CFR part 206, subparts F and J; part 210, subparts B, E, and H; and part 218, subparts B and E.

The MMS is requesting OMB's approval to continue to collect this information. Not collecting this information would limit the Secretary's ability to discharge fiduciary duties and may also result in loss of royalty payments. Proprietary information submitted is protected, and there are no questions of a sensitive nature included in this information collection.

Frequency: Monthly.

Estimated Number and Description of Respondents: 114 reporters of 139 producing solid mineral mines; 68 of which are Federal coal mines and 4 of which are Indian coal mines.

Estimated Annual Reporting and Recordkeeping "Hour" Burden: 1,747 hours.

We are revising this ICR to include reporting requirements (30 CFR 206, 210.57, and 210.353 citations) that were overlooked in the original submission, and we are increasing the burden hours submitted to OMB. The number of respondents decreased because we are using the actual number of reporters versus the estimated number of responses in the original submission. In addition, there has been a significant reduction in producing mines and a consolidation of properties. MRM only requires reporters to submit information on producing mines. We base the number of respondents on the number of reporters for producing mines.

Over the past 3 years, lessees have advised MMS that it takes more time to report on Form MMS–4430 than estimated in the original submission. We base the burden hours per response in this request on the average burden hours of simple and complex reporting situations which depend upon the point of royalty determination.

We have not included in our estimates certain requirements performed in the normal course of business and considered usual and customary. For further clarification, we are including CFR citations in this ICR renewal related to the compliance process showing no associated burden hours. Some requests related to the compliance process are exempt from the PRA by determination of DOI's Office of Regulatory Affairs (ORA). The reason for exemption is because the MMS staff asks non-standard questions to resolve exceptions.

The following chart shows the breakdown of the estimated burden hours by CFR section and paragraph:

RESPONDENT'S ESTIMATED ANNUAL BURDEN HOURS CHART

Citation 30 CFR	Reporting & recordkeeping requirement	Hour burden	Average number annual responses	Annual burden hours
Part 206, Subpart F—Federal Coal Valuation Standards				
206.254	Quality and quantity measurement standards for reporting and paying royalties. * * * Coal quantity information shall be reported on appropriate forms required under 30 CFR part 216 and on the Solid Minerals Production and Royalty Report, Form MMS–4430, as required under 30 CFR part 210.	25 minutes	816 reports	340
206.257(b)(1)	Valuation standards for ad valorem leases. (b)(1) * * * The lessee shall have the burden of demonstrating that its contract is arm's length. * * *	Produce records: The Office of Regulatory Affairs (ORA) determined that the audit process is not covered by the Paperwork Reduction Act of 1995 (PRA) because MMS staff asks non-standard questions to resolve exceptions		0
206.257(b)(3)	Valuation standards for ad valorem leases. (3) * * * When MMS determines that the value may be unreasonable, MMS will notify the lessee and give the lessee an opportunity to provide written information justifying the lessee's reported coal value.	Produce records: The ORA determined thawt the audit process is notcovered by the PRA because MMS staff asks non-standard questions to resolve exceptions		0
206.257(b)(4)	Valuation standards for ad valorem leases. (4) The MMS may require a lessee to certify that its arm's-length contract provisions include all of the consideration to be paid by the buyer, either directly or indirectly, for the coal production.	Produce records: The ORA determined that the audit process is not covered by the PRA because MMS staff asks non-standard questions to resolve exceptions		0
206.257(d)(2)	Valuation standards for ad valorem leases. (2) Any Federal lessee will make available upon request to the authorized MMS or State representatives, to the Inspector General of the Department of the Interior or other persons authorized to receive such information, arm's-length sales value and sales quantity data for like-quality coal sold, purchased, or otherwise obtained by the lessee from the area.	Produce records: The ORA determined that the audit process is not covered by the PRA because MMS staff asks non-standard questions to resolve exceptions		0
Part 206, Subpart F—Federal Coal Washing Allowances				
206.259(a)(1)	Determination of washing allowances. (a) Arm's-length contracts. (1) * * * The lessee shall have the burden of demonstrating that its contract is arm's-length. * * *	Produce records: The ORA determined that the audit process is not covered by the PRA because MMS staff asks non-standard questions to resolve exceptions		0
206.259(a)(1)	Determination of washing allowances. (a) Arm's-length contracts. (1) * * * the washing allowance shall be the reasonable actual costs incurred by the lessee for washing the coal. * * *	20 minutes	12 lines	4
206.259(a)(3)	Determination of washing allowances. (a) Arm's-length contracts. * * * (3) * * * When MMS determines that the value of the washing may be unreasonable, MMS will notify the lessee and give the lessee an opportunity to provide written information justifying the lessee's washing costs.	Produce records: The ORA determined that the audit process is not covered by the PRA because MMS staff asks non-standard questions to resolve exceptions		0
206.259(b)(1)	Determination of washing allowances. (b) Non-arm's-length or no contract. (1) * * * the washing allowance will be based upon the lessee's reasonable actual costs. * * *	45 minutes	48 lines	36

RESPONDENT'S ESTIMATED ANNUAL BURDEN HOURS CHART—Continued

Citation 30 CFR	Reporting & recordkeeping requirement	Hour burden	Average number annual responses	Annual burden hours
206.259(c)(1)(i)	Determination of washing allowances. (c) Reporting requirements—(1) Arm's-length contracts. (i) The lessee must notify MMS of an allowance based on incurred costs by using a separate line entry on the Form MMS–4430.	Burden hours covered under § 210.201.		0
206.259(c)(1)(ii)	Determination of washing allowances. (c) Reporting requirements—(1) Arm's-length contracts. * * * (ii) The MMS may require that a lessee submit arm's-length washing contracts and related documents. * * *	Produce records: The ORA determined that the audit process is not covered by the PRA because MMS staff asks non-standard questions to resolve exceptions		0
206.259(c)(2)(i)	Determination of washing allowances. (c) Reporting requirements—* * * (2) Non-arm's-length or no contract. (i) The lessee must notify MMS of an allowance based on the incurred costs by using a separate line entry on the Form MMS–4430.	Burden hours covered under § 210.201		0
206.259(c)(2)(iii)	Determination of washing allowances. (c) Reporting requirements—* * * (2) Non-arm's-length or no contract. * * * (iii) Upon request by MMS, the lessee shall submit all data used to prepare the allowance deduction. * * *	Produce records: The ORA determined that the audit process is not covered by the PRA because MMS staff asks non-standard questions to resolve exceptions		0
206.259(e)(2)	Determination of washing allowances. (e) Adjustments. * * * (2) The lessee must submit a corrected Form MMS–4430 to reflect actual costs, together with any payment, in accordance with instructions provided by MMS.	Burden hours covered under § 210.201.		0
Part 206, Subpart F—Federal Coal Transportation Allowances				
206.262(a)(1)	Determination of transportation allowances. (a) Arm's-length contracts. (1) * * * The lessee shall have the burden of demonstrating that its contract is process is arm's-length * * *.	Produce records: The ORA determined that the audit process is not covered by the PRA because MMS staff asks non-standard questions to resolve exceptions		0
206.262(a)(1)	Determination of transportation allowances. (a) Arm's-length contracts. (1) * * * the transportation allowance shall be the reasonable actual costs incurred by the lessee for transporting the coal * * *.	20 minutes	240 lines	80
206.262(a)(3)	Determination of transportation allowances. (a) Arm's-length contracts.* * * (3) * * * When MMS determines that the value of the transportation may be unreasonable, MMS will notify the lessee and give the lessee an opportunity to provide written information justifying the lessee's transportation costs.	Produce Records: The ORA determined that the audit process is not covered by the PRA because MMS staff asks non-standard questions to resolve exceptions		0
206.262(b)(1)	Determination of transportation allowances. (b) Non-arm's-length or no contract.—(1) * * * the transportation allowance will be based upon the lessee's reasonable actual costs. * * *	45 minutes	24 lines	18

RESPONDENT'S ESTIMATED ANNUAL BURDEN HOURS CHART—Continued

Citation 30 CFR	Reporting & recordkeeping requirement	Hour burden	Average number annual responses	Annual burden hours
206.262(c)(1)(i)	Determination of transportation allowances. (c) Reporting requirements—(1) Arm's-length contracts. (i) The lessee must notify MMS of an allowance based on incurred costs by using a separate line entry on the Form MMS–4430.	Burden hours covered under § 210.201		0
206.262(c)(1)(ii)	Determination of transportation allowances. (c) Reporting requirements—(1) Arm's-length contracts. * * * (ii) The MMS may require that a lessee submit arm's-length transportation contracts, production agreements, operating agreements, and related documents. * * *	Produce Records The ORA determined that the audit process is not covered by the PRA because MMS staff asks non-standard questions to resolve exceptions		0
206.262(c)(2)(i)	Determination of transportation allowances. (c) Reporting requirements—(2) Non-arm's-length or no contract. (i) The lessee must notify MMS of an allowance based on the incurred costs by using a separate line entry on Form MMS–4430.	Burden hours covered under § 210.201.		0
206.262(c)(2)(iii)	Determination of transportation allowances. (c) Reporting requirements—(2) Non-arm's-length or no contract. * * * (iii) Upon request by MMS, the lessee shall submit all data used to prepare the allowance deduction. * * *	Produce Records The ORA determined that the audit process is not covered by the PRA because MMS staff asks non-standard questions to resolve exceptions		0
206.262(e)(2)	Determination of transportation allowances. (e) Adjustments. * * * (2) The lessee must submit a corrected Form MMS–4430 to reflect actual costs, together with any payments, in accordance with instructions provided by MMS.	Burden hours covered under § 210.201.		0

RESPONDENT'S ESTIMATED ANNUAL BURDEN HOURS CHART—Continued

Citation 30 CFR	Reporting & recordkeeping requirement	Hour burden	Average number annual responses	Annual burden hours
Part 206, Subpart J—Indian Coal Valuation Standards				
206.453	Quality and quantity measurement standards for reporting and paying royalties. * * * Coal quantity information shall be reported on appropriate forms required under 30 CFR part 216 and on the Solid Minerals Production and Royalty Report, Form MMS–4430, as required under 30 CFR part 210.	25 minutes	48 reports	20
206.456(b)(1)	Valuation standards for ad valorem leases. (b)(1) * * * The lessee shall have the burden of demonstrating that its contract is arm's-length. * * *	Produce Records The ORA determined that the audit process is not covered by the PRA because MMS staff asks non-standard questions to resolve exceptions.		0
206.456(b)(3)	Valuation standards for ad valorem leases. (b)(3) * * * When MMS determines that the value may be unreasonable, MMS will notify the lessee and give the lessee an opportunity to provide written information justifying the lessee's reported coal value.	Produce Records: The ORA determined that the audit process is not covered by the PRA because MMS staff asks non-standard questions to resolve exceptions		0
206.456(b)(4)	Valuation standards for ad valorem leases. (b)(4) MMS may require a lessee to certify that its arm's-length contract provisions include all of the consideration to be paid by the buyer, either directly or indirectly, for the coal production.	Produce Records The ORA determined that the audit process is not covered by the PRA because MMS staff asks non-standard questions to resolve exceptions		0
206.456 (d)(2)	Valuation standards for ad valorem leases. (d)(2) An Indian lessee will make available upon request to the authorized MMS or Indian representatives, or to the Inspector General of the Department of the Interior or other persons authorized to receive such information, arm's-length sales and sales quantity data for like-quality coal sold, purchased, or otherwise obtained by the lessee from the area.	Produce records: The ORA determined that the audit process is not covered by the PRA because MMS staff asks non-standard questions to resolve exceptions		0
Part 206, Subpart J—Indian Coal Washing Allowances				
206.458(a)(1)	Determination of washing allowances. (a) Arm's-length contracts. (1) * * * the washing allowance shall be the reasonable actual costs incurred by the lessee for washing the coal * * *. However, before any deduction may be taken, the lessee must submit a completed page one of Form MMS–4292, Coal Washing Allowance Report, in accordance with paragraph (c)(1) of this section. A washing allowance may be claimed retroactively for a period of not more than 3 months prior to the first day of the month that Form MMS–4292 is filed with MMS, unless MMS approves a longer period upon a showing of good cause by the lessee.	Burden covered by OMB Control Number 1010–0074		0
206.458(a)(3)	Determination of washing allowances. (a) Arm's-length contracts. * * * (3) * * * When MMS determines that the value of the washing may be unreasonable, MMS will notify the lessee and give the lessee an opportunity to provide written information justifying the lessee's washing costs.	Produce records: The ORA determined that the audit process is not covered by the PRA because MMS staff asks non-standard questions to resolve exceptions		0
206.458(b)(1)	Determination of washing allowances. (b) Non-arm's-length or no contract. (1) * * * the washing allowance will be based upon the lessee's reasonable actual costs. * * * However, before any estimated or actual deduction may be taken, the lessee must submit a completed Form MMS–4292 in accordance with paragraph (c)(2) of this section. A washing allowance may be claimed retroactively for a period of not more than 3 months prior to the first day of the month that Form MMS–4292 is filed with MMS, unless MMS approves a longer period upon a showing of good cause by the lessee. * * *	Burden covered by OMB Control Number 1010–0074		0

RESPONDENT'S ESTIMATED ANNUAL BURDEN HOURS CHART—Continued

Citation 30 CFR	Reporting & recordkeeping requirement	Hour burden	Average number annual responses	Annual burden hours
206.458(c)(1)(i)	Determination of washing allowances. (c) Reporting requirements. (1) Arm's-length contracts. (i) With the exception of those washing allowances specified in paragraphs (c)(1)(v) and (c)(1)(vi) of this section, the lessee shall submit page one of the initial Form MMS–4292 prior to, or at the same time, as the washing allowance determined pursuant to an arm's-length contract is reported on Form MMS–4430, Solid Minerals Production and Royalty Report. * * *	Burden covered by OMB Control Number 1010–0074		0
206.458(c)(1)(iii)	Determination of washing allowances. (c) Reporting requirements. (1) Arm's-length contracts. * * * (iii) After the initial reporting period and for succeeding reporting periods, lessees must submit page one of Form MMS–4292 within 3 months after the end of the calendar year, or after the applicable contract or rate terminates or is modified or amended, whichever is earlier, unless MMS approves a longer period (during which period the lessee shall continue to use the allowance from the previous reporting period).	Burden covered by OMB0 Control Number 1010–0074.		0
206.458(c)(1)(iv)	Determination of washing allowances. (c) Reporting requirements. (1) Arm's-length contracts. * * * (iv) MMS may require that a lessee submit arm's-length washing contracts and related documents. * * *	Produce records: The ORA determined that the audit process is not covered by the PRA because MMS staff asks non-standard questions to resolve exceptions		0
206.458(c)(2)(i)	Determination of washing allowances. (c) Reporting requirements. * * * (2)Non-arm's-length or no contract. (i) With the exception of those washing allowances specified in paragraphs (c)(2)(v) and (c)(2)(vii) of this section, the lessee shall submit an initial Form MMS–4292 prior to, or at the same time as, the washing allowance determined pursuant to a non-arm's-length contract or no contract situation is reported on Form MMS–4430, Solid Minerals Production and Royalty Report * * *.	Burden covered by OMB Control Number 1010–0074		0
206.458(c)(2)(iii)	Determination of washing allowances. (c) Reporting requirements. * * * (2) Non-arm's-length or no contract. * * * (iii) For calendar-year reporting periods succeeding the initial reporting period, the lessee shall submit a completed Form MMS–4292 containing the actual costs for the previous reporting period. If coal washing is continuing, the lessee shall include on Form MMS–4292 its estimated costs for the next calendar year. * * * Form MMS–4292 must be received by MMS within 3 months after the end of the previous reporting period, unless MMS approves a longer period (during which period the lessee shall continue to use the allowance from the previous reporting period).	Burden covered by OMB Control Number 1010–0074		0
206.458(c)(2)(vi)	Determination of washing allowances. (c) Reporting requirements. * * * (2) Non-arm's-length or no contract. * * * (vi) Upon request by MMS, the lessee shall submit all data used by the lessee to prepare its Forms MMS–4292 * * *.	Produce records: The ORA determined that the audit process is not covered by the PRA because MMS staff asks non-standard questions to resolve exceptions		0
206.458(c)(4)	Determination of washing allowances. (c) Reporting requirements. * * * (4) Washing allowances must be reported as a separate line on the Form MMS–4430, unless MMS approves a different reporting procedure.	Burden hours covered under § 210.201		0
206.458(e)(2)	Determination of washing allowances. (e) Adjustments. * * * (2) The lessee must submit a corrected Form MMS–4430 to reflect actual costs, together with any payment, in accordance with instructions provided by MMS.	Burden hours covered under § 210.201		0

RESPONDENT'S ESTIMATED ANNUAL BURDEN HOURS CHART—Continued

Citation 30 CFR	Reporting & recordkeeping requirement	Hour burden	Average number annual responses	Annual burden hours
	Part 206, Subpart J—Indian Coal Transportation Allowances			
206.461(a)(1)	Determination of transportation allowances. (a) Arm's-length contracts. (1) * * * the transportation allowance shall be the reasonable, actual costs incurred by the lessee for transporting the coal * * *. However, before any deduction may be taken, the lessee must submit a completed page one of Form MMS–4293, Coal Transportation Allowance Report, in accordance with paragraph (c)(1) of this section. A transportation allowance may be claimed retroactively for a period of not more than 3 months prior to the first day of the month that Form MMS–4293 is filed with MMS, unless MMS approves a longer period upon a showing of good cause by the lessee.	Burden covered by OMB Control Number 1010–0074		0
206.461(a)(3)	Determination of transportation allowances. (a) Arm's-length contracts.* * * (3) * * * When MMS determines that the value of the transportation may be unreasonable, MMS will notify the lessee and give the lessee an opportunity to provide written information justifying the lessee's transportation costs.	Produce records: The ORA determined that the audit process is not covered by the PRA because MMS staff asks non-standard questions to resolve exceptions		0
206.461(b)(1)	Determination of transportation allowances. (b) Non-arm's-length or no contract. (1) * * * the transportation allowance will be based upon the lessee's reasonable actual costs * * *. However, before any estimated or actual deduction may be taken, the lessee must submit a completed Form MMS–4293 in accordance with paragraph (c)(2) of this section. A transportation allowance may be claimed retroactively for a period of not more than 3 months prior to the first day of the month that Form MMS–4293 is filed with MMS, unless MMS approves a longer period upon a showing of good cause by the lessee * * *.	Burden covered by OMB Control Number 1010–0074		0
206.461(c)(1)(i)	Determination of transportation allowances. (c) Reporting requirements. (1) Arm's-length contracts. (i) With the exception of those transportation allowances specified in paragraphs (c)(1)(v) and (c)(1)(vi) of this section, the lessee shall submit page one of the initial Form MMS–4293 prior to, or at the same time as, the transportation allowance determined pursuant to an arm's-length contract is reported on Form MMS–4430, Solid Minerals Production and Royalty Report.	Burden covered by OMB Control Number 1010–0074		0

RESPONDENT'S ESTIMATED ANNUAL BURDEN HOURS CHART—Continued

Citation 30 CFR	Reporting & recordkeeping requirement	Hour burden	Average number annual responses	Annual burden hours
206.461(c)(1)(iii)	Determination of transportation allowances. (c) Reporting requirements. (1) Arm's-length contracts.* * * (iii) After the initial reporting period and for succeeding reporting periods, lessees must submit page one of Form MMS–4293 within 3 months after the end of the calendar year, or after the applicable contract or rate terminates or is modified or amended, whichever is earlier, unless MMS approves a longer period (during which period the lessee shall continue to use the allowance from the previous reporting period). Lessees may request special reporting procedures in unique allowance reporting situations, such as those related to spot sales.	Burden covered by OMB Control Number 1010–0074		0
206.461(c)(1)(iv)	Determination of transportation allowances. (c) Reporting requirements. (1) Arm's-length contracts.* * * (iv) MMS may require that a lessee submit arm's-length transportation contracts, production agreements, operating agreements, and related documents.* * *	Produce records: The ORA determined that the audit process is not covered by the PRA because MMS staff asks non-standard questions to resolve exceptions		0
206.461(c)(2)(i)	Determination of transportation allowances. (c) Reporting requirements. * * * (2) Non-arm's-length or no contract. (i) With the exception of those transportation allowances specified in paragraphs (c)(2)(v) and (c)(2)(vii) of this section, the lessee shall submit an initial Form MMS–4293 prior to, or at the same time as, the transportation allowance determined pursuant to a non-arm's-length contract or no contract situation is reported on Form MMS–4430, Solid Minerals Production and Royalty Report * * *.	Burden covered by OMB Control Number 1010–0074		0
206.461(c)(2)(iii)	Determination of transportation allowances. (c) Reporting requirements. * * * (2) Non-arm's-length or no contract.* * * (iii) For calendar-year reporting periods succeeding the initial reporting period, the lessee shall submit a completed Form MMS–4293 containing the actual costs for the previous reporting period. * * * Form MMS–4293 must be received by MMS within 3 months after the end of the previous reporting period, unless MMS approves a longer period (during which period the lessee shall continue to use the allowance from the previous reporting period)	Burden covered by OMB0 Control Number 1010–0074		0
206.461(c)(2)(vi)	Determination of transportation allowances. (c) Reporting requirements. * * * (2) Non-arm's-length or no contract. * * * (vi) Upon request by MMS, the lessee shall submit all data used to prepare its Form MMS–4293 * * *	Produce records: (1) The ORA determined that the audit process is not covered by the PRA because MMS staff asks non-standard questions to resolve exceptions		0
206.461(c)(4)	Determination of transportation allowances. (c) Reporting requirements. * * * (4) Transportation allowances must be reported as a separate line item on Form MMS–4430, unless MMS approves a different reporting procedure	Burden hours covered under § 210.201		0
206.461(e)(2)	Determination of transportation allowances. (e) Adjustments. * * * (2) The lessee must submit a corrected Form MMS–4430 to reflect actual costs, together with any payment, in accordance with instructions provided by MMS	Burden hours covered under § 210.201		0
	Part 210, Subpart B—Oil, Gas, and OCS Sulfur—General			
210.52(a)	Report of sales and royalty remittance. (a) You must submit a completed Form MMS–2014 (Report of Sales and Royalty Remittance) to MMS with: * * *	Burden covered by OMB Control Number 1010–0140		0
	Part 210, Subpart E—Solid Minerals, General			
210.201	How do I submit Form MMS–4430, Solid Minerals Production and Royalty Report? (a) What to submit. (1) You must submit a completed Form MMS–4430 for— * * *. (Burden hours for citations, 206.259(c)(1)(i), 206.259(c)(2)(i), 206.259(e)(2), 206.262(c)(1)(i), 206.262(c)(2)(i), 206.262(e)(2), 206.458(c)(4), 206.458(e)(2), 206.461(c)(4), and 206.461(e)(2), are included in this citation's burden hours due to the submission process.)	30 minutes	1,668 reports	834

RESPONDENT'S ESTIMATED ANNUAL BURDEN HOURS CHART—Continued

Citation 30 CFR	Reporting & recordkeeping requirement	Hour burden	Average number annual responses	Annual burden hours
210.202	How do I submit sales summaries? (a) What to submit. (1) You must submit sales summaries for all coal and other solid minerals produced from Federal and Indian leases and for any remote storage site from which you sell Federal or Indian solid minerals * * *.	15 minutes	1,140 sales summaries.	285
210.203	How do I submit sales contracts? (a) What to submit. You must submit sales contracts, agreements, and contract amendments for the sale of all coal and other solid minerals produced from Federal and Indian leases with ad valorem royalty terms * * *.	1 hour	30 sales contracts	30
210.204	How do I submit facility data? (a) What to submit. (1) You must submit facility data if you operate a wash plant, refining, ore concentration, or other processing facility for any coal, sodium, potassium, metals, or other solid minerals produced from Federal or Indian leases with ad valorem royalty terms * * *.	15 minutes	360 facility data submissions.	90
210.205	Will I need to submit additional documents or evidence to MMS? (a) Federal and Indian lease terms allow us to request detailed statements, documents, or other evidence necessary to verify compliance * * *. (b) We will request this additional information as we need it * * *	Produce records: The ORA determined that the audit process is not covered by the PRA because MMS staff asks non-standard questions to resolve exceptions		0
Part 210, Subpart H—Geothermal Resources				
210.351	Required recordkeeping. * * * [Geothermal] Records may be maintained on microfilm, microfiche, or other recorded media that are easily reproducible and readable. * * *	Maintain records: Burden covered under OMB 1010–0140		0
210.352	Payor information forms. [geothermal] The Payor Information Form (Form MMS–4025) must be filed for each Federal lease on which geothermal royalties (including byproduct royalties) are paid. * * *	This form is no longer used by MMS		0
210.353	Special forms and reports. [geothermal] The MMS may require submission of additional information on special forms or reports. * * *	1 hour	1 submission	1
210.354	Monthly report of sales and royalty. A completed Report of Sales and Royalty Remittance (Form MMS–2014) must be submitted each month once sales or utilization of [geothermal] production occur, * * *.	Burden covered by OMB Control Number 1010-0140		0
Part 218, Subpart B—Oil and Gas, General				
218.52(a) and (c)	How does a lessee designate a Designee? (a) If you are a lessee under 30 U.S.C. 1701(7), and you want to designate a person to make all or part of the payments due under a lease on your behalf under 30 U.S.C. 1712(a), you must notify MMS or the applicable delegated State in writing of such designation * * *. (c) If you want to terminate a designation you made under paragraph (a) of this section, you must provide to MMS in writing before the termination * * *.	Burden covered by OMB Control Number 1010-0107		0
218.57(a)(2)	Providing information and claiming rewards. (a) General. * * * (2) If a person has any information he or she believes would be valuable to MMS, that person ("informant") should submit the information in writing, in the form of a letter * * *.	30 minutes	1 submission	0.5
218.57(b)(3)(i)	Providing information and claiming rewards. (b) Claim for reward. * * * (3) To file a claim for reward the informant must: (i) Notify the Director, MMS * * * that he/she is claiming a reward.	30 minutes	1 submission	0.5

RESPONDENT'S ESTIMATED ANNUAL BURDEN HOURS CHART—Continued

Citation 30 CFR	Reporting & recordkeeping requirement	Hour burden	Average number annual responses	Annual burden hours
Part 218, Subpart E—Solid Minerals—General				
218.201(b)	Method of payment. You must tender all payments * * *, except as follows: * * * (b) For Form MMS–4430 payments, include both your customer identification and your customer document identification numbers on your payment document * * *.	20 seconds	1,368 payments	8
Total burden			5,757	1,747

Estimated Annual Reporting and Recordkeeping "Non-hour" Cost Burden: We have identified no "non-hour" cost burdens.

Public Disclosure Statement: The PRA (44 U.S.C. 3501, *et seq.*) provides that 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.

Comments: Section 3506(c)(2)(A) of the PRA requires each agency "* * * to provide notice * * * and otherwise consult with members of the public and affected agencies concerning each proposed collection of information * * *." Agencies must specifically solicit comments to: (a) Evaluate whether the proposed collection of information is necessary for the agency to perform its duties, including whether the information is useful; (b) evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) enhance the quality, usefulness, and clarity of the information to be collected; and (d) minimize the burden on the respondents, including the use of automated collection techniques or other forms of information technology.

To comply with the public consultation process, we published a notice in the **Federal Register** on March 8, 2004 (69 FR 10746), announcing that we would submit this ICR to OMB for approval. The notice provided the required 60-day comment period. We received no written comments in response to the notice. However, in addition to the notice, we interviewed 9 companies and received 2 comments. These can be viewed at our Web site *http://www.mrm.mms.gov/Laws_R_D/InfoColl/InfoColCom.htm.*

If you wish to comment in response to this notice, you may send your comments to the offices listed under the **ADDRESSES** section of this notice. OMB has up to 60 days to approve or disapprove the information collection but may respond after 30 days. Therefore, to ensure maximum consideration, OMB should receive public comments by September 29, 2004.

Public Comment Policy: We will post all comments in response to this notice on our Web site at *http://www.mrm.mms.gov/Laws_R_D/InfoColl/InfoColCom.htm.* We will also make copies of the comments available for public review, including names and addresses of respondents, during regular business hours at our offices in Lakewood, Colorado. Upon request, we will withhold an individual respondent's home address from the public record, as 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 request that we withhold your name and/or address, state your request 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.

MMS Information Collection Clearance Officer: Arlene Bajusz (202) 208–7744.

Dated: July 30, 2004.

Lucy Querques Denett,

Associate Director for Minerals Revenue Management.

[FR Doc. 04–19652 Filed 8–27–04; 8:45 am]

BILLING CODE 4310–MR–P

DEPARTMENT OF THE INTERIOR

Bureau of Reclamation

California Bay-Delta Public Advisory Committee Public Meeting

AGENCY: Bureau of Reclamation, Interior.

ACTION: Amended notice of meeting.

SUMMARY: In accordance with the Federal Advisory Committee Act, the California Bay-Delta Public Advisory Committee will meet on September 9, 2004, rather than September 8 and 9, 2004, as noticed in the **Federal Register** on August 16, 2004. Due to unforeseen circumstances, the Chairman of the Bay-Delta Public Advisory Committee has determined it to be more appropriate to have a 1-day meeting. The agenda for the meeting will include administrative actions carried over from the July meeting, a report from the Independent Science board and the Lead Scientist, a discussion on the Finance Options Report and 10-Year Finance Plan, and consideration of Proposal Solicitation Packages for State agency grants with State and Federal agency representatives.

DATES: The meeting will be held on Thursday, September 9, 2004, from 9 a.m. to 4 p.m. If reasonable accommodation is needed due to a disability, please contact Pauline Nevins at (916) 445–5511 or TDD (800) 735–2929 at least 1 week prior to the meeting.

ADDRESSES: The meeting will be held at the California Bay-Delta Authority offices at 650 Capital Mall, 5th Floor, Bay-Delta Room, Sacramento, California.

FOR FURTHER INFORMATION CONTACT: Heidi Rooks, California Bay-Delta Authority, at (916) 445–5511, or Diane Buzzard, U.S. Bureau of Reclamation, at (916) 978–5022.

SUPPLEMENTARY INFORMATION: The Committee was established to provide recommendations to the Secretary of the Interior, other participating Federal agencies, the Governor of the State of California, and the California Bay-Delta Authority on implementation of the CALFED Bay-Delta Program. The Committee makes recommendations on annual priorities, integration of the eleven Program elements, and overall balancing of the four Program objectives of ecosystem restoration, water quality,

levee system integrity, and water supply reliability. The Program is a consortium of State and Federal agencies with the mission to develop and implement a long-term comprehensive plan that will restore ecological health and improve water management for beneficial uses of the San Francisco/Sacramento and San Joaquin Bay Delta.

Committee and meeting materials will be available on the California Bay-Delta Authority Web site at *http://calwater.ca.gov* and at the meeting. This meeting is open to the public. Oral comments will be accepted from members of the public at the meeting and will be limited to 3–5 minutes.

(Authority: The Committee was established pursuant to the Department of the Interior's authority to implement the Fish and Wildlife Coordination Act, 16 USC. 661 *et seq.*, the Endangered Species Act, 16 USC 1531 *et seq.*, and the Reclamation Act of 1902, 43 USC 371 *et seq.* and the acts amendatory thereto for supplementary thereto, all collectively referred to as the Federal Reclamation laws, and in particular, the Central Valley Project Improvement Act, P.L. 102–575.)

Diane Buzzard,

Acting Special Projects Officer, Mid-Pacific Region.

[FR Doc. 04–19830 Filed 8–27–04; 8:45 am]

BILLING CODE 4310–MN–M

DEPARTMENT OF JUSTICE

Antitrust Division

Notice Pursuant to the National Cooperative Research and Production Act of 1993—Optical Internetworking Forum

Notice is hereby given that, on august 5, 2004, pursuant to Section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* ("the Act"), Optical Internetworking Forum has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing changes in its membership status. The notifications were filed for the purpose of extending the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Specifically, Scientific Atlanta, Inc., Lawrenceville, GA; Aevix Systems, Gifsur-Yvette, FRANCE; and Enigma Semiconductor, Copenhagen, DENMARK have been added as parties to this venture. Also, America Online, Reston, VA; Artisan Components, San Diego, CA; Emcore, Albuquerque, NM; Finisar Corporation, Sunnyvale, CA; Ibiden, Gifu, JAPAN; Mitretek Systems, Falls Church, VA; Sun Microsystems, Los Angeles, CA; Acuid, Midlothian, Dalkeith, UNITED KINGDOM; Agility Communications, Santa Barbara, CA; Analogix Semiconductor, Santa Clara, CA; ASTRI, Kowloon, HONG KONG–CHINA; Bit Blitz Communications, Milpitas, CA; Calient Networks, San Jose, CA; Chunghwa Telecom Labs, Tao Yuan, TAIWAN; CIVCOM, Petach-Tikvah, ISRAEL; Corrigent Systems, San Jose, CA; Corvis Corporation, Columbia, MD; Galazar Networks, Ottowa, Ontario, CANADA; Helix AG, Zurich, SWITZERLAND; Industrial Technology Research Institute, Chutung, TAIWAN; Intelligent Photonics Control, Kanata, Ontario, CANADA; Intune Technologies, Ltd., Dublin, IRELAND; KeyEye Communications, Sacramento, CA; Lumentis, Haagerston, SWEDEN; NIST, Gathersburg, MD; PhotonEx, Maynard, MA; Phyworks, Temple Quay, UNITED KINGDON; Silicon Access Networks, Ottowa, Ontario, CANADA; Tellium, Oceanport, NJ; Wavecrest Corporation, Eden Prairie, MN; Xanoptix, Merrimack, NH; Cray, Chippewa Falls, WI; Ericcson, Stockholm, SWEDEN; FiberHome Telecommunications, Wuhan, PEOPLE'S REPUBLIC OF CHINA; Intelligent Telecom, Taejon, REPUBLIC OF KOREA; ITSD, Ministry of Management Services, Victoria, British Columbia, CANDA; Marvell Semiconductor, Sunnyvale, CA; MathStar, Minnetonka, MN; Maxim Integrated Products, Sunnyvale, CA; Motorola, Austin, TX; Virtual Silicon Technology, Sunnyvale, CA; China Academy of Telecommunications Research, Beijing, PEOPLE'S REPUBLIC OF CHINA; and Georgia Institute of technology, Atlanta, GA have been dropped as parties to this venture.

Also, Photuris, Inc., Piscataway, NJ was acquired by Mahi Networks, Petaluma, CA; Procket Networks, San Jose, CA was acquired by Cisco Systems, San Jose, CA; and Velio Communications, Milpitas, CA was acquired by LSI Logic, Milpitas, CA.

No other changes have been made in either the membership or planned activity of the group research project. Membership in this group research project remains open, and Optical Internetworking Forum intends to fill additional written notification disclosing all changes in membership.

On October 5, 1998, Optical Internetworking Forum filed its original notification pursuant to Section 6(a) of the Act. The Department of Justice published a notice in the **Federal Register** pursuant to Section 6(b) of the Act on January 29, 1999 (64 FR 4709).

The last notification was filed with the Department on April 5, 2004. A notice was published in the **Federal Register** pursuant to Section 6(b) of the Act on May 3, 2004 (69 FR 24195).

Dorothy B. Fountain,

Deputy Director of Operations, Antitrust Division.

[FR Doc. 04–19770 Filed 8–27–04; 8:45 am]

BILLING CODE 4410–11–M

DEPARTMENT OF JUSTICE

Antitrust Division

Notice Pursuant to the National Cooperative Research and Production Act of 1993—Petroleum Environmental Research Forum ("PERF")

Notice is hereby given that, on August 4, 2004, pursuant to Section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* ("the Act"), Petroleum Environmental Research Forum ("PERF") has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing changes in its membership status. The notifications were filed for the purpose of extending the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Specifically, Champion Technologies, Inc., Houston, TX has become a member of PERF.

No other changes have been made in either the membership or planned activity of the group research project. Membership in this group research project remains open, and Petroleum Environmental Research Forum ("PERF") intends to file additional written notification disclosing all changes in membership.

On February 10, 1986, Petroleum Environmental Research Forum ("PERF") filed its original notification pursuant to Section 6(a) of the Act. The Department of Justice published a notice in the **Federal Register** pursuant to Section 6(b) of the Act on March 14, 1986 (51 FR 8903).

The last notification was filed with the Department on January 28, 2004. A notice was published in the **Federal Register** pursuant to Section 6(b) of the Act on March 4, 2004 (69 FR 10263).

Dorothy B. Fountain,

Deputy Director of Operations, Antitrust Division.

[FR Doc. 04–19767 Filed 8–27–04; 8:45 am]

BILLING CODE 4410–11–M

DEPARTMENT OF JUSTICE

Antitrust Division

Notice Pursuant to the National Cooperative Research and Production Act of 1993—Portland Cement Association

Notice is hereby given that, on August 9, 2004, pursuant to Section 6(a) of the National Cooperative Research and Production Act of 1983, 15 U.S.C. 4301 *et seq.* ("the Act"), Portland Cement Association ("PCA") has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing changes in its membership status. The notifications were filed for the purpose of extending the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Specifically, FLS Automation, Bethlehem, PA has been dropped as an Associate Member of this venture.

No other changes have been made in either the membership or planned activity of the group research project. Membership in this group research project remains open, and PCA intends to file additional written notification disclosing all changes in membership.

On January 7, 1985, PCA filed its original notification pursuant to Section 6(a) of the Act. The Department of Justice published a notice in the **Federal Register** pursuant to Section 6(b) of the Act on February 5, 1985 (50 FR 5015).

The last notification was filed with the Department on June 8, 2004. A notice was published in the **Federal Register** pursuant to Section 6(b) of the Act on July 8, 2004 (69 FR 41281).

Dorothy B. Fountain,

Deputy Director of Operations, Antitrust Division.

[FR Doc. 04–19769 Filed 8–27–04; 8:45 am]

BILLING CODE 4410–11–M

DEPARTMENT OF JUSTICE

Antitrust Division

Notice Pursuant to the National Cooperative Research and Production Act of 1993—Salutation Consortium, Inc.

Notice is hereby given that, on August 5, 2004, pursuant to Section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. § 4301 *et seq.* ("the Act"), Salutation Consortium, Inc. has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing changes in its membership status. The notifications were filed for the purpose of extending the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Specifically, Matsushita Electric Industrial Co., Ltd., Osaka, Japan has been dropped as a party to this venture.

No other changes have been made in either the membership or planned activity of the group research project. Membership in this group research project remains open, and Salutation Consortium, Inc. intends to file additional written notification disclosing all changes in membership.

On March 30, 1995, Salutation Consortium, Inc. filed its original notification pursuant to Section 6(a) of the Act. The Department of Justice published a notice in the **Federal Register** pursuant to Section 6(b) of the Act on June 27, 1995 (60 FR 33233).

The last notification was filed with the Department on May 25, 2004. A notice was published in the **Federal Register** pursuant to Section 6(b) of the Act on June 21, 2004 (69 FR 34406).

Dorothy B. Fountain,

Deputy Director of Operations, Antitrust Division.

[FR Doc. 04–19766 Filed 8–27–04; 8:45 am]

BILLING CODE 4410–11–M

DEPARTMENT OF JUSTICE

Antitrust Division

Notice Pursuant to the National Cooperative Research and Production Act of 1993—Air Conditioning and Refrigeration Institute, Inc.

Notice is hereby given that, on July 19, 2004, pursuant to Section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* ("the Act"), the Air-conditioning and Refrigeration Institute ("ARI") has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing (1) the name and principal place of business of the standards development organization and (2) the nature and scope of its standards development activities. The notifications were filed for the purpose of invoking the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances.

Pursuant to Section 6(b) of the Act, the name and principal place of business of the standards development organization is: Air-Conditioning and Refrigeration Institute, Inc., Arlington, VA. The nature and scope of ARI's standards development activities are to develop, promulgate and publish voluntary consensus standards for air conditioning and refrigeration products. ARI standards establish rating criteria and procedures for measuring and certifying product performance. ARI's standards ensure the rating of air conditioning and refrigeration products on a uniform basis, so that buyers and users can properly compare products for specific applications. ARI's voluntary consensus standards are developed by ARI members and other interested parties who wish to participate in ARI's standard development process.

Additional information concerning ARI can be obtained from Stephen R. Yurek, General Counsel of ARI, at (703) 524–8800.

Dorothy B. Fountain,

Deputy Director of Operations, Antitrust Division.

[FR Doc. 04–19768 Filed 8–27–04; 8:45 am]

BILLING CODE 4410–11–M

DEPARTMENT OF LABOR

Employee Benefits Security Administration

126th Plenary Meeting; Advisory Council on Employee Welfare and Pension Benefit Plans; Notice of Meeting

Pursuant to the authority contained in Section 512 of the Employee Retirement Income Security Act of 1974 (ERISA), 29 U.S.C. 1142, the 126th open meeting of the full Advisory Council on Employee Welfare and Pension Benefit Plans will be held on Wednesday, September 22, 2004.

The session will take place in Room N3437 A–C, U.S. Department of Labor Building, 200 Constitution Avenue, NW., Washington, DC 20210. The purpose of the meeting, which will begin at 8:30 a.m. and end at approximately 10:30 a.m., is for the chairpersons of the Council's working groups to provide progress reports; for Council members to discuss suggestions for the next National Summit on Retirement Savings; and to receive an update on the activities of the Employee Benefits Security Administration.

Organizations or members of the public wishing to submit a written statement pertaining to any topics under consideration by the Advisory Council may do so by submitting 20 copies on or before September 14, 2004 to Debra Golding, ERISA Advisory Council, U.S. Department of Labor, Room N–5656, 200 Constitution Avenue, NW., Washington, DC 20210. Statements received on or before September 14,

2004 will be included in the record of the meeting. Individuals or representatives of organizations wishing to address the Advisory Council should forward their request to Debra Golding at the above address or via telephone at (202) 693–8664. Oral presentations will be limited to 10 minutes, time permitting, but an extended statement may be submitted for the record. Individuals with disabilities who need special accommodations should contact Debra Golding by September 14 at the address indicated in this notice.

Signed at Washington, DC this 24th day of August, 2004.

Bradford P. Campbell,

Deputy Assistant Secretary for Policy, Employee Benefits Security Administration.

[FR Doc. 04–19668 Filed 8–27–04; 8:45 am]

BILLING CODE 4510–29–M

DEPARTMENT OF LABOR

Employee Benefits Security Administration

Working Group on Health and Welfare Form 5500 Requirements; Advisory Council on Employee Welfare and Pension Benefit Plans; Notice of Meeting

Pursuant to the authority contained in Section 512 of the Employee Retirement Income Security Act of 1974 (ERISA), 29 U.S.C. 1142, a public meeting will be held on Wednesday, September 22, 2004, of the Advisory Council on Employee Welfare and Pension Benefit Plans Working Group assigned to study health and welfare Form 5500 requirements. The working group will study the Form 5500 requirements for health and welfare plans to assess the benefits of this reporting for these plans.

The session will take place in Room N3437 A–C, U.S. Department of Labor Building, 200 Constitution Avenue, NW., Washington, DC 20210. The purpose of the meeting, which will begin at 10:30 a.m. and end at approximately 5 p.m. with a one-hour lunch break at noon, is for the working group to hear from select witnesses on the issue.

Organizations or members of the public wishing to submit a written statement pertaining to the topic may do so by submitting 20 copies on or before September 14, 2004 to Debra Golding, ERISA Advisory Council, U.S. Department of Labor, Room N–5656, 200 Constitution Avenue, NW., Washington, DC 20210. Statements received on or before September 14, 2004 will be included in the record of the meeting. Individuals or representatives of organizations wishing to address the Working Group should forward their request to Debra Golding at the above address or via telephone at (202) 693–8664. Oral presentations will be limited to 20 minutes, time permitting, but an extended statement may be submitted for the record. Individuals with disabilities who need special accommodations should contact Debra Golding by September 14 at the address indicated in this notice.

Dated: Signed at Washington, DC this 24th day of August, 2004.

Bradford P. Campbell,

Deputy Assistant Secretary for Policy, Employee Benefits Security Administration.

[FR Doc. 04–19669 Filed 8–27–04; 8:45 am]

BILLING CODE 4510–29–M

DEPARTMENT OF LABOR

Employee Benefits Security Administration

Working Group on Fee and Related Disclosures to Participants, Advisory Council on Employee Welfare and Pension Benefit Plans; Notice of Meeting

Pursuant to the authority contained in Section 512 of the Employee Retirement Income Security Act of 1974 (ERISA), 29 U.S.C. 1142, a public meeting will be held on Tuesday, September 21, 2004, of the Advisory Council on Employee Welfare and Pension Benefit Plans Working Group assigned to study fee and related disclosures to plan participants. The working group will study fee and related disclosures to participants in defined contribution plans that relate to investment decisions and retirement savings in order to help participants manage their retirement savings more effectively.

The session will take place in Room N3437 A–C, U.S. Department of Labor Building, 200 Constitution Avenue, NW., Washington, DC 20210. The purpose of the meeting, which will begin at 8:30 a.m. and end at approximately 5 p.m. with a one-hour lunch break at noon, is for the working group to hear from select witnesses on the issue.

Organizations or members of the public wishing to submit a written statement pertaining to the topic may do so by submitting 20 copies on or before September 14, 2004 to Debra Golding, ERISA Advisory Council, U.S. Department of Labor, Room N–5656, 200 Constitution Avenue, NW., Washington, DC 20210. Statements received on or before September 14, 2004 will be included in the record of the meeting. Individuals or representatives of organizations wishing to address the Working Group should forward their request to Debra Golding at the above address or via telephone at (202) 693–8664. Oral presentations will be limited to 20 minutes, time permitting, but an extended statement may be submitted for the record. Individuals with disabilities who need special accommodations should contact Debra Golding by September 14 at the address indicated in this notice.

Signed at Washington, DC this 24th day of August, 2004.

Bradford P. Campbell,

Deputy Assistant Secretary for Policy, Employee Benefits Security Administration.

[FR Doc. 04–19670 Filed 8–27–04; 8:45 am]

BILLING CODE 4510–29–M

DEPARTMENT OF LABOR

Employee Benefits Security Administration

Working Group on Plan Fees and Reporting on Form 5500; Advisory Council on Employee Welfare and Pension Benefit Plans; Notice of Meeting

Pursuant to the authority contained in Section 512 of the Employee Retirement Income Security Act of 1974 (ERISA), 29 U.S.C. 1142, a public meeting will be held on Thursday, September 23, 2004, of the Advisory Council on Employee Welfare and Pension Benefit Plans Working Group assigned to study plan fees and reporting on the Form 5500. The working group will study plan fees as reported on the Form 5500 to assess plan sponsors' understanding of the fees they are paying and the reporting requirements.

The session will take place in Room N3437 A–C, U.S. Department of Labor Building, 200 Constitution Avenue, NW., Washington, DC 20210. The purpose of the meeting, which will begin at 8:30 a.m. and end at approximately 5 p.m. with a one-hour lunch break at noon, is for the working group to hear from select witnesses on the issue.

Organizations or members of the public wishing to submit a written statement pertaining to the topic may do so by submitting 20 copies on or before September 14, 2004 to Debra Golding, ERISA Advisory Council, U.S. Department of Labor, Room N–5656, 200 Constitution Avenue, NW., Washington, DC 20210. Statements received on or before September 14, 2004 will be included in the record of the meeting. Individuals or

representatives of organizations wishing to address the Working Group should forward their request to Debra Golding at the above address or via telephone at (202) 693–8664. Oral presentations will be limited to 20 minutes, time permitting, but an extended statement may be submitted for the record. Individuals with disabilities who need special accommodations should contact Debra Golding by September 14 at the address indicated in this notice.

Signed at Washington, DC this 24th day of August, 2004.

Bradford P. Campbell,

Deputy Assistant Secretary for Policy, Employee Benefits Security Administration.

[FR Doc. 04–19671 Filed 8–27–04; 8:45 am]

BILLING CODE 4510–29–M

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–55,363]

A–N Inc. d/b/a Caraway Décor Center, Marion, North Carolina; Notice of Termination of Investigation

Pursuant to Section 221 of the Trade Act of 1974, an investigation was initiated on August 3, 2004 in response to a worker petition which was filed by a company official on behalf of workers at A–N Inc., d/b/a Caraway Décor Center, Marion, North Carolina.

The petitioner has requested that the petition be withdrawn. Consequently, the investigation has been terminated.

Signed in Washington, DC this 17th day of August, 2004.

Richard Church,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. 04–19677 Filed 8–27–04; 8:45 am]

BILLING CODE 4510–30–P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–55,320]

C.M. Holtzinger Fruit Company Prosser, Washington; Notice of Termination of Investigation

Pursuant to Section 221 of the Trade Act of 1974, an investigation was initiated on July 26, 2004 in response to a petition filed by a company official on behalf of workers at C.M. Holtzinger Fruit Company, Prosser, Washington.

The petitioner has requested that the petition be withdrawn. Consequently, further investigation in this case would serve no purpose, and the investigation has been terminated.

Signed in Washington, DC, this 20th day of August 2004.

Linda G. Poole,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. 04–19679 Filed 8–27–04; 8:45 am]

BILLING CODE 4510–30–P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–55,420]

Lanier Clothes, Greenville, Georgia; Notice of Termination of Investigation

Pursuant to Section 221 of the Trade Act of 1974, an investigation was initiated on August 11, 2004 in response to a worker petition which was filed by a company official on behalf of workers at Lanier Clothes, Greenville, Georgia.

The petitioner has requested that the petition be withdrawn. Consequently, the investigation has been terminated.

Signed in Washington, DC this 17th day of August, 2004.

Richard Church,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. 04–19676 Filed 8–27–04; 8:45 am]

BILLING CODE 4510–30–P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–54,629]

Motorola, Inc., Information Technology Semiconductor Products Sector Tempe, Arizona; Notice of Negative Determination on Reconsideration

On July 22, 2004, the Department of Labor issued a Notice of Affirmative Determination Regarding Application for Reconsideration for the workers and former workers of the subject firm. The Notice of determination was published in the **Federal Register** on August 4, 2004 (69 FR 47182).

The Department issued the initial denial for Trade Adjustment Assistance (TAA) because the investigation revealed that workers provided software and systems design, development, implementation and maintenance in support of hundreds of Semiconductor Products Sector's global automated manufacturing and business applications. The investigation also revealed that maintenance and development functions were shifting to India and that Semiconductor Products Sector (SPS) revenue increased during the relevant time period.

Service workers could be certified for TAA if they directly support an affiliated facility whose workers independently qualify for TAA or are determined to be TAA certifiable.

The petitioners allege in the request for reconsideration that the subject company's semiconductor sales decreased, that semiconductor production was shifted to Taiwan, and that software development functions were shifted to India.

On reconsideration, the Department investigated whether the subject company's semiconductor sales decreased during the relevant time periods (2002, 2003, January-March 2003 and January-March 2004). A review of the additional information revealed increased sales in the Semiconductor Product Sector during the investigation period.

Under Section 113 of the Trade Adjustment Assistance Reform Act of 2002 (Pub. L 107–210), workers who are laid off as a result of a shift in production to a country that is party to a free trade agreement with the United States, or a country that is named as a beneficiary under the Andean Trade Preference Act, the African Growth and Opportunity Act or the Caribbean Basin Economic Recovery Act, may be qualified for TAA certification.

Taiwan is not party to a free trade agreement with the United States or named as a beneficiary under any of the above referenced Acts. Therefore, even if the petitioner's allegation was true, a production shift to Taiwan absent increased imports by the subject company of like or directly competitive products, is not a basis for TAA certification. Further, the TAA program does not recognized the shift of service functions abroad as a basis for certification.

Conclusion

After reconsideration, I affirm the original notice of negative determination of eligibility to apply for worker adjustment assistance for workers and former workers of Motorola, Inc., Information Technology, Semiconductor Products Sector, Tempe, Arizona.

Signed at Washington, DC, this 20th day of August 2004.

Elliott S. Kushner,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. 04–19674 Filed 8–27–04; 8:45 am]

BILLING CODE 4510–30–P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–50,588]

Murray Engineering, Inc. Complete Design Service, Flint, Michigan; Notice of Negative Determination on Remand

The United States Court of International Trade (USCIT) remanded to the Department of Labor for further investigation *Former Employees of Murray Engineering* v. *U.S. Secretary of Labor*, USCIT 03–00219. The Department concludes that the subject worker group does not qualify for eligibility to apply for Trade Adjustment Assistance (TAA) benefits for two reasons. First, the subject facility does not produce an article because designs are not an article for TAA purposes. Second, irrespective of whether the subject facility's designs are articles, the petition would be denied because there was neither a shift of production nor increased imports as required under section 222(a) of the Trade Act of 1974, as amended (Trade Act), and the workers do not qualify as adversely affected secondary workers under section 222(b) of the Trade Act.

On January 15, 2003, the petitioner filed a petition on behalf of workers of Murray Engineering, Inc., Complete Design Service, Flint, Michigan ("Murray Engineering") for TAA. The petition stated that workers design automotive gauges, tools, fixtures, and dies.

The Department's initial negative determination for the former workers of Murray Engineering was issued on February 5, 2003. The Notice of Determination was published in the **Federal Register** on February 24, 2003 (68 FR 8620). The Department's determination was based on the finding that workers provided industrial design and engineering services and did not produce an article within the meaning of Section 222 of the Trade Act.

In a letter dated February 19, 2003, the petitioner requested administrative reconsideration of the Department's negative determination. The petitioner alleged that Murray Engineering produced a "tangible drawing essential and integral to the making or building of a product" and that the Department was misled by the "Service" in the company's name.

The Department denied the petitioner's request for reconsideration on March 31, 2003, stating that the engineering drawings, schematics, and electronically generated information prepared by the subject worker group were not considered production within the meaning of the Trade Act. The Department further stated that the fact that the information is generated on paper is irrelevant to worker group eligibility for TAA. The Department's Notice of Negative Determination Regarding Application for Reconsideration was published in the **Federal Register** on April 15, 2003 (68 FR 18264).

By letter of April 30, 2003, the petitioner appealed the Department's denial of the request for reconsideration to the USCIT asserting that "machine drawings (plans) are an article." The petitioner asserts that the subject worker group should be eligible to apply for TAA due to imports of like or directly competitive articles and, alternatively, because they are adversely affected secondary workers.

The Department filed a motion requesting that the USCIT remand the case to the Department for further investigation, and the USCIT granted the motion.

The Department issued its Notice of Negative Determination on Remand on August 20, 2003. The Notice was published in the **Federal Register** on September 10, 2003 (68 FR 53395). The remand determination stated that the workers did not produce an article and were not eligible for certification as workers producing an article affected either by a shift of production or by imports, or as adversely affected secondary workers.

On May 4, 2004, the USCIT remanded the matter to the Department for further investigation, directing the Department to investigate: (1) The nature of the designs provided by Murray Engineering to its customers;(2) how the designs are sold to Murray Engineering's customers; (3) what proportion of the designs are printed or embodied on CD-Rom/diskette; and (4) how the petitioner's eligibility to apply for TAA is affected by the different formats in which the designs are embodied. The USCIT reserved judgment whether the Murray Engineering workers are qualified for certification as adversely affected secondary workers.

The designs created by Murray Engineering are used to make machines, tools, gauges, dies, molds and fixtures for hydraulic, pneumatic, mechanical, and electrical systems used in the manufacture of products. Each design is unique because each one is job specific and tailored to customer's specifications. Workers use computer software such as Unigraphics and Auto Cad to create each design.

According to the Murray Engineering company official, Murray Engineering customers are charged for the labor incurred in the creation of the designs and can either pay by design or pay by the hour. Printed copies of the design are provided to customers about two-thirds of the time and, in all instances, designs are provided on CD-Rom.

When a project is accepted by Murray Engineering, it is assigned to a designer to develop the designs. The assigned designer is responsible for understanding and adhering to the design specifications, understanding the client's product and manufacturing operations, and working with the client to develop the final design. The designer creates multiple designs for the customer, from which the customer would choose one, and Murray Engineering would then modify the chosen design as requested. The design process requires constant input and approval by the customer. Steps of the design process may be repeated before the final design is approved by the customer.

Once the designs are completed and meet the customer's requirements, the designs are saved on Murray Engineering's computer network. The designs are then hand-delivered to the customer in the format that the customer has requested. As noted above, in all cases the designs are provided on CD-Rom, and in two-thirds of the cases printed copies are provided. Data charts, test results, and other schematics may accompany the designs when the designs are sent to the customer.

The job descriptions provided by Murray Engineering for the Complete Design Service show that workers are engaged primarily in activity related to the preparation of designs of machines, tools, gauges, dies, molds and fixtures for hydraulic, pneumatic, mechanical, and electrical systems used in the manufacture of products. The positions are detail-oriented and require a wide range of technical skills (including designing, drafting, mathematical computation, and computer graphics). Additionally, some drafters and designers may be required to take additional training and acquire the skills and knowledge (including familiarity with the client's products and manufacturing operations) needed to create the design per specifications.

The USCIT's May 4, 2004 decision suggests that any item classified in the Harmonized Tariff Schedule of the United States ("HTSUS") is an "article" for all purposes of the Trade Act, including the TAA program. If one relies solely on HTSUS classification codes, one would conclude that the workers of Murray Engineering produce an article within the meaning of the TAA program because designs printed on paper and designs transmitted on diskette or CD-Rom are included under HTSUS classification codes. Designs recorded on paper are identified in heading 4911, HTSUS, and designs recorded on diskette or CD-Rom is identified in subheading 8524.39.40, HTSUS. Since Murray Engineering provides all designs to its customers on CD-Rom, the designs would be included under subheading 8524.39.40, HTSUS, and the two-thirds of the designs provided on paper would be included under heading 4911, HTSUS.

However, the Department believes that rote application of HTSUS classification codes is not the sole arbiter in this matter, and the Department bases this determination that the workers do not produce an article for TAA purposes upon a careful review of many sources of information rather than limiting its analysis to rote application of HTSUS classification codes.

The Department believes that HTSUS classification codes are not, in this case, determinative because the designs are subject to duty only to the extent that the medium upon which it is recorded is subject to duty. Clarifying this point, the duty would be levied without regard to the content or value of the designs themselves, but rather is determined by the medium itself. Thus, designs recorded on paper are subject to duty only to the extent that the medium upon which they are recorded (paper) is subject to duty (heading 4911, HTSUS). Likewise, designs recorded on diskette or CD-Rom are subject to duty only to the extent that the medium upon which they are recorded is subject to duty (subheading 8524.39.40, HTSUS). In contrast, telecommunication transmissions, such as electronic mail, television and radio signals, and Internet activity, are exempt from the HTSUS (General Note 3è(ii)) and, therefore, designs sent by such means are not subject to duty. This is an important distinction because workers of Murray Engineering, Complete Design Service are engaged in developing designs and not in the manufacture of the mediums on which the designs are conveyed to customers.

The Department believes it would lead to absurd results and would contravene the purposes of the TAA program to condition the workers' eligibility for benefits on the medium through which designs are provided to customers. Allowing the medium of conveyance to control whether designs are articles for purposes of determining TAA worker group eligibility would result in workers performing identical work as Murray Engineering workers being denied TAA benefits if their firm solely e-mailed designs to customers, without providing them on CD-Rom, diskettes, or paper. The Department believes this would be an unjust and absurd basis for distinguishing whether a group of workers would be eligible to apply for TAA. Therefore, the Department believes that it would be erroneous to conclude that the Murray Engineering designs are articles solely because they would, because of their medium of conveyance, fall under specified HTSUS classification codes.

Although HTSUS classification codes arguably support that designs are articles, other sources support the conclusion that designs are not articles for TAA purposes. These sources include: (1) Documents illustrating the company's self-identification as a service provider, the design creation process, and the workers' job descriptions; (2) information from the Department of Homeland Security, U.S. Customs and Border Protection (Customs); (3) the Central Product Classification system compiled by the United Nations; (4) the World Trade Organization's "Services Sectoral Classification List" and General Agreement on Trade in Services; and (5) the Department of Labor, Bureau of Labor Statistics, *Occupational Outlook Handbook*.

Murray Engineering identifies itself as a company that provides industrial design and engineering solution services to manufacturing industries. The company official has consistently referred to Murray Engineering as a service provider and the Department notes that the company was unable to provide production figures because no such records are kept since it considers itself to be a service company. That Murray Engineering gives customers the option of paying by the hour rather than by the design further supports that Murray Engineering does not produce an article because common experience is that payment by hours of labor rather than by quantity of a finished product is not an option provided to customers purchasing articles.

The Department sought information from Customs, because Customs is an authority on import classification, on the classification of designs and whether Murray Engineering's designs are subject to duty under the HTSUS. Customs suggested that the Department review the U.S. Customs Service, Customs Bulletin and Decisions, Volume 36, No. 6 (February 6, 2003), Attachment A (a collection of Customs classification decisions). Throughout Attachment A, Customs valued carrier media bearing data or instructions, inclusive or exclusive of the value of the recorded data or instructions, only on the cost or value of the carrier medium itself. That Customs classifies and values imports based on physical characteristics supports that the Murray Engineering designs are not "articles" for TAA program purposes because they would be dutiable based on the medium of conveyance rather than the designs contained on the medium. As noted above, this is important because workers of Murray Engineering, Complete Design Service are engaged in design work and not in the manufacture of the medium of conveyance.

Pursuant to a suggestion by the U.S. International Trade Commission, the Department sought guidance from the United Nations' Central Product Classification system (CPC), which also supports that the Murray Engineering designs are not articles. The United Nations developed the CPC to provide unrestricted access to selected global data, including international trade statistics. The CPC classifies items into products and services. It is clear from a review of the CPC that design work is a service. The designs created by the workers of Murray Engineering are covered by Section Eight ("Business services; agricultural, mining and manufacturing services"), Group 867 ("Architectural, engineering and other technical services"), Class 8672 ("Engineering services"), Subclasses 86725 ("Engineering design services for industrial processes and production") and 86726 ("Engineering design services n.e.c."). The Explanatory note for Subclass 86726 states that "[i]ncluded here are acoustical and vibration engineering designs, traffic control system designs, prototype development and detailed designs for new products and any other specialty engineering design services." The identification of design work as a service supports that designs are not an article.

Further, the Department referred to a World Trade Organization (WTO) classification system, the "Services Sectoral Classification List," that is similar to the CPC and supports a conclusion that Murray Engineering does not produce articles. The "Services

Sectoral Classification List" identifies and describes types of services in various industries. This classification list was developed as a reference for the international trade community when dealing with services negotiations. A careful review of this list shows that it follows the CPC and lists "Engineering services" in Section 8672 and "Related scientific and technical consulting services" in Section 8675. The Department believes that the Murray Engineering design work logically falls within these classifications, supporting that the workers perform a service and do not produce articles.

Finally among sources of information in the international trade community, the Department referred to the WTO's General Agreement on Trade in Services (GATS) for guidance. The GATS provides further support for concluding that Murray Engineering does not produce articles. The GATS is a set of rules covering international trade in services. The GATS identifies "architectural and engineering services" as a sector that "includes work by engineering firms to provide blueprints and designs for buildings and other structures and by engineering firms to provide planning, design, construction and management services for building structures, installations, civil engineering work and industrial processes." This description encompasses the design work performed by Murray Engineering and supports that designs are not articles because the work is categorized in a classification system that is specific to service work and, by its very purpose, excludes manufacture and trade of tangible goods.

In addition to sources of information above, the Department examined a source of information outside the international trade community but within the Department of Labor, the *Occupational Outlook Handbook*. The *Occupational Outlook Handbook* is published by the Department of Labor, Bureau of Labor Statistics (BLS), and it provides further support that a conclusion that designs are not articles. BLS published the "Occupational Outlook Information" handbook in 1946 to assist vocational counselors in finding employment for returning veterans. BLS published the *Occupational Outlook Handbook* for civilians in 1949. The purpose of the publication is to guide the general public—schools, colleges, employment service offices, vocational guidance counselors, and job-seeking individuals—in matters regarding employment, training, and career development. The Department believes this publication is useful for analyzing the proper classification of design work because it reflects the Department's broader view of how various jobs are classified.

The *Occupational Outlook Handbook* categorizes design work under the job functions of "drafters." The *Occupational Outlook Handbook* states that "[d]rafters prepare technical drawings and plans used by production and construction workers to build everything from manufactured products, such as toys, toasters, industrial machinery, and spacecraft. . . . Their drawings provide visual guidelines, show the technical details of the products and structures, and specify dimensions, materials, and procedures. Drafters fill in technical details, using drawings, rough sketches, specifications, codes, and calculations previously made by engineers, surveyors, architects, or scientists. . . . Some drafters use their knowledge of engineering and manufacturing theory and standards to draw the parts of the machine in order to determine design elements, such as the numbers and kinds of fasteners needed to assemble the machine." This description applies to the work performed by Murray Engineering workers.

The *Occupational Outlook Handbook* states, under the "employment" heading for the occupation of "drafters," that "[a]lmost half of all jobs for drafters were in architectural, engineering and related *services* firms that design construction projects or do other engineering work on a contract basis for other industries." (Emphasis added.) This description applies to Murray Engineering workers and supports that drafting work is a service rather than involving the production of an article.

Even if one concludes that the Murray Engineering designs are articles for TAA purposes, the subject worker group cannot be certified because the certification criteria are not met under either under Section 222(a) of the Trade Act or, for adversely affected secondary workers, under Section 222(b) of the Trade Act.

The Department also investigated, assuming for argument that designs are articles, whether the certification criteria under Section 222(a) of the Trade Act have been met. This investigation inquired into whether Murray Engineering shifted production from the subject facility to another country, or whether the subject firm or its major declining customers increased imports of products like or directly competitive with those made at the subject facility. The investigation revealed that Murray Engineering did not shift design work abroad or import designs during the relevant time periods (2001 and 2002). The Department conducted a survey of Murray Engineering's major declining customers regarding their purchases of designs for periods 2001 and 2002. The customers surveyed constituted a significant portion of the subject company's sales declines during the relevant time period. All the customers reported no import purchases of designs during the surveyed time periods.

Regarding TAA eligibility as adversely affected secondary workers under section 222(b) of the Trade Act, the subject worker group can be certified as eligible to apply for TAA as adversely affected secondary workers only if Murray Engineering either: (1) Supplied components or unfinished or semi-finished goods to a firm employing workers who are covered by a certification of eligibility for adjustment assistance; or (2) assembled or finished products made by such a firm. In the case at hand, neither criterion is met because Murray Engineering did no assembly or finishing work, nor did any of Murray Engineering's customers' workers receive a certification of eligibility to apply for TAA during the relevant time period.

In order to be eligible as suppliers of components or unfinished or semi-finished goods, as petitioner claims the subject worker group to be, the subject worker group must have produced a component part of the product that is the basis of the TAA certification. Because Murray Engineering did not produce a component part of a final product, they were not secondary suppliers of a TAA-certified facility, as required by section 222(b) of the Trade Act. Even if the design specifications were sometimes mounted or affixed to their customers' manufacturing equipment, the display of the design specifications were not necessary for the equipment to function properly and did not enhance the equipment's performance; thus, the designs were not component parts.

Further, Murray Engineering did no business with a TAA-certified company during the relevant time period. The petitioning worker specifically claims that Murray Engineering provided designs to Lamb Technicon, a TAA-certified company (TA–W–40,267 & TA–W–40,267A). However, Murray Engineering did business with Lamb Technicon most recently in 1999, which is before the relevant time period for the Murray Engineering petition at issue in this case. Therefore, Lamb Technicon's certification (TA–W–40,267 & TA–W–40,267A) is not a valid basis for

certifying Murray Engineering workers as adversely affected secondary workers eligible to apply for TAA.

Conclusion

After careful reconsideration on remand, I affirm the original notice of negative determination of eligibility to apply for TAA for workers and former workers of Murray Engineering, Inc., Complete Design Service, Flint, Michigan.

Signed at Washington, DC this 19th day of August 2004.

Elliott S. Kushner,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. 04–19672 Filed 8–27–04; 8:45 am]

BILLING CODE 4510–30–P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–55,003 and TA–W–55,003A;]

Pomona Textile Co., Inc. Production Plant, Pomona, California; Pomona Textile Co., Inc. Sales Office, Burbank, California; Notice of Revised Determination on Reconsideration

By letter dated July 22, 2004 a company official requested administrative reconsideration regarding the Department's Negative Determination Regarding Eligibility to Apply for Worker Adjustment Assistance, applicable to the workers of the subject firm.

The initial investigation resulted in a negative determination signed on July 7, 2004 was based on the finding that imports of nylon and polyester tricot did not contribute importantly to worker separations at the subject plant and no shift of production to a foreign source occurred. The denial notice was published in the **Federal Register** on August 3, 2004 (69 FR 46574).

To support the request for reconsideration, the company official supplied additional information. Upon further review and contact with the subject firm's major customer, it was revealed that the customer significantly increased its import purchases of nylon-polyester tricot while decreasing its purchases from the subject firm during the relevant period. The imports accounted for a meaningful portion of the subject plant's lost sales and production.

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 additional facts obtained on reconsideration, I conclude that increased imports of articles like or directly competitive with those produced at Pomona Textile Co., Inc., Pomona, California, contributed importantly to the declines in sales or production and to the total or partial separation of workers at the subject firm. In accordance with the provisions of the Act, I make the following certification:

"All workers of Pomona Textile, Co, Inc., Production Plant, Pomona, California (TA–W–55,003) and Pomona Textile Co., Inc., Sales Office, Burbank, California (TA–W–55,003A), who became totally or partially separated from employment on or after May 28, 2003 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 18th day of August, 2004.

Elliott S. Kushner,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. 04–19673 Filed 8–27–04; 8:45 am]

BILLING CODE 4510–30–P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–55,347]

Romar Textile Inc., Ellwood City, PA; Notice of Termination of Investigation

Pursuant to section 221 of the Trade Act of 1974, as amended, an investigation was initiated on July 30, 2004 in response to a worker petition filed by a company official on behalf of workers at Romar Textile, Inc., Ellwood City, Pennsylvania.

The petitioner has requested that the petition be withdrawn. Consequently, the investigation has been terminated.

Signed at Washington, DC this 20th day of August, 2004.

Linda G. Poole,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. 04–19678 Filed 8–27–04; 8:45 am]

BILLING CODE 4510–30–P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–55,398]

Thomasville Furniture Industries, Inc., Plant V, Thomasville, NC; Notice of Termination of Investigation

Pursuant to Section 221 of the Trade Act of 1974, an investigation was initiated on August 6, 2004 in response to a petition filed on behalf of workers at Thomasville Furniture Industries, Inc., Plant V, Thomasville, North Carolina.

The petitioning group of workers is covered by active certifications issued on January 13, 2004 which remain in effect (TA–W–53,515G and TA–W–53,515H, as amended). Consequently, further investigation in this case would serve no purpose, and the investigation has been terminated.

Signed in Washington, DC, this 17th day of August 2004.

Richard Church,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. 04–19675 Filed 8–27–04; 8:45 am]

BILLING CODE 4510–30–P

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

[Docket No. ICR–1218–0099(2004)]

Respiratory Protection Standard; Extension of the Office of Management and Budget's (OMB) Approval of Information Collection (Paperwork) Requirements

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

ACTION: Request for public comment.

SUMMARY: OSHA solicits comments concerning its request for an extension of the information collection requirements contained in the Respiratory Protection Standard (29 CFR 1910.134).

DATES: Comments must be submitted by the following dates:

Hard Copy: Your comments must be submitted (postmarked or received) by October 29, 2004.

Facsimile and electronic transmission: Your comments must be received by October 29, 2004.

ADDRESSES: You may submit comments, identified by OSHA Docket No. ICR–1218–0099(2004), by any of the following methods:

Regular mail, express delivery, hand-delivery, and messenger service: Submit your comments and attachments to the OSHA Docket Office, Room N–2625, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, DC 20210; telephone (202) 693–2350 (OSHA's TTY number is (877) 889–5627). The OSHA Docket Office and Department of Labor hours of operation are 8:15 a.m. to 4:45 p.m. e.s.t.

Facsimile: If your comments, including any attachments are 10 pages or fewer, you may fax them to the OSHA Docket Office at (202) 693–1648.

Electronic: You may submit comments through the Internet at *http://ecomments.osha.gov/*. Follow instructions on the OSHA Webpage for submitting comments.

Docket: For access to the docket to read or download comments or background materials, such as the complete Information Collection Request (ICR) (containing the Supporting Statement, OMB–83–I Form, and attachments), go to OSHA's Web page at *http://OSHA.gov*. Comments, submissions, and the ICR are available for inspection and copying at the OSHA Docket Office at the address above. You also may contact Todd Owen at the address below to obtain a copy of the ICR.

(For additional information on submitting comments, please see the "Public Participation" heading in the **SUPPLEMENTARY INFORMATION** section of this document.)

FOR FURTHER INFORMATION CONTACT: Todd Owen, Directorate of Standards and Guidance, OSHA, Room N–3609, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, DC 20210; telephone (202) 693–2222.

SUPPLEMENTARY INFORMATION:

I. Submission of Comments on This Notice and Internet Access to Comments and Submissions

You may submit comments and supporting materials in response to this document by (1) hard copy; (2) FAX transmission (facsimile); or (3) electronically through the OSHA Webpage.

Because of security-related problems, there may be a significant delay in the receipt of comments by regular mail. Please contact the OSHA Docket Office at (202) 693–2350 (TTY (877) 889–5627) for information about security procedures concerning the delivery of materials by express delivery, hand delivery, and messenger service.

All comments, submissions, and background documents are available for inspection and copying at the OSHA Docket Office at the above address. Comments and submissions posted on OSHA's Webpage are available at *http://www.OSHA.gov*. Contact the OSHA Docket Office for information about materials not available through the OSHA Webpage and for assistance using the Webpage to locate docket submissions.

Electronic copies of this **Federal Register** notice, as well as other relevant documents, are available on OSHA's Webpage.

II. Background

The Department of Labor, as part of its continuing effort to reduce paperwork and respondent (*i.e.*, employer) burden, conducts a preclearance consultation program to provide the public with an opportunity to comment on proposed and continuing information collection requirements in accordance with the Paperwork Reduction Act of 1995 (PRA–95) (44 U.S.C. 3506(c)(2)(A)).

This program ensures that information is in the desired format, reporting burden (time and costs) is minimal, collection instruments are clearly understood, and OSHA's estimate of the information collection burden is accurate. The Occupational Safety and Health Act of 1970 (the Act) (29 U.S.C. 651 *et seq.*) authorizes information collection by employers as necessary or appropriate for enforcement of the Act or for developing information regarding the causes and prevention of occupational injuries, illnesses, and accidents (29 U.S.C. 657).

The Respiratory Protection Standard (§ 1910.134; hereafter, "Standard") information collection requirements require employers to: develop a written respirator program; conduct employee medical evaluations and provide follow-up medical evaluations to determine the employee's ability to use a respirator; provide the physician or other licensed health care professional with information about the employee's respirator and the conditions under which the employee will use the respirator; and administrater fit tests for employees who will use negative- or positive-pressure, tight-fitting facepieces. In addition, employers must ensure that employees store emergency-use respirators in compartments clearly marked as containing emergency-use respirators. For respirators maintained for emergency use, employers must label or tag the respirator with a certificate stating the date of inspection, the name of the individual who made the inspection, the findings of the inspection, required remedial action, and the identity of the respirator.

The Standard also requires employers to ensure that cylinders used to supply breathing air to respirators have a certificate of analysis from the supplier stating that the breathing air meets the requirements for Type 1—Grade D breathing air; such certification assures employers that the purchased breathing air is safe. Compressors used to supply breathing air to respirators must have a tag containing the most recent change date and the signature of the individual authorized by the employer to perform the change. Employers must maintain this tag at the compressor. These tags provide assurance that the compressors are functioning properly.

III. Special Issues for Comment

OSHA has a particular interest in comments on the following issues:

- Whether the information-collection requirements are necessary for the proper performance of the Agency's functions, including whether the information is useful;
- The accuracy of the Agency's estimate of the burden (time and costs) of the information collection requirements, including the validity of the methodology and assumptions used;
- The quality, utility, and clarity of the information collected; and
- Ways to minimize the burden on employers who must comply; for example, by using automated or other technological information collection and -transmission techniques.

IV. Proposed Actions

OSHA is proposing to extend the information collection requirements contained in the Respiratory Protection Standard (29 CFR 1910.134). The Agency will summarize the comments submitted in response to this notice, and will include this summary in the request to OMB to extend the approval of the information collection requirements contained in the Standard.

Type of Review: Extension of currently approved information collection requirements.

Title: Respiratory Protection (29 CFR 1910.134).

OMB Number: 1218–0099.

Affected Public: Business or other for-profit; not-for-profit institutions; Federal

governments; State, local, or tribal governments.

Number of Respondents: 619,430.

Frequency of Response: Annually; monthly; on occasion.

Total Responses: 19,136,576.

Average Time per Response: Time per response varies from 5 minutes (.08 hours) to mark a storage compartment or protective cover to 8 hours for large employers to gather and prepare information to develop a written program.

Estimated Total Burden Hours: 6,334,640.

Estimated Cost (Operation and Maintenance): $97,720,304.

V. Authority and Signature

John L. Henshaw, Assistant Secretary of Labor for Occupational Safety and Health, directed the preparation of this notice. The authority for this notice is the Paperwork Reduction Act of 1995 (44 U.S.C. 3506), and Secretary of Labor's Order No. 5–2002 (67 FR 65008).

Signed at Washington, DC, on August 24, 2004.

John L. Henshaw,

Assistant Secretary of Labor.

[FR Doc. 04–19748 Filed 8–27–04; 8:45 am]

BILLING CODE 4510–26–M

NATIONAL SCIENCE FOUNDATION

Agency Information Collection Activities: Comment Request

AGENCY: National Science Foundation.

ACTION: Notice; Submission for OMB review; Comment request.

SUMMARY: The National Science Foundation (NSF) has submitted the following information collection requirement to OMB for review and clearance under the Paperwork Reduction Act of 1995, Pub. L. 104–13. This is the second notice for public comment; the first was published in the **Federal Register** at 69 FR 39515, and no comments were received. NSF is forwarding the proposed renewal submission to the Office of Management and Budget (OMB) for clearance simultaneously with the publication of this second notice. 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: Office of Information and Regulatory Affairs of OMB, Attention: Desk Officer for National Science Foundation, 725—17th Street, NW., Room 10235, Washington, DC 20503, and to Bijan Gilanshah, Assistant General Counsel, through surface mail (National Science Foundation, 4201 Wilson Boulevard, Room 1265, Arlington, Virginia 22230); e-mail (*bgilansh@nsf.gov*) or fax (703–292–9041). 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 703–292–8060.

NSF 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.

Under OMB regulations, the agency may continue to conduct or sponsor the collection of information while this submission is pending at OMB.

ADDRESSES: Submit written comments to Bijan Gilanshah, Assistant General Counsel, through surface mail (National Science Foundation, 4201 Wilson Boulevard, Room 1265, Arlington, Virginia 22230); e-mail (*bgilansh@nsf.gov*) or fax (703–292–9041).

FOR FURTHER INFORMATION CONTACT: Call or write, Bijan Gilanshah, Assistant General Counsel, at the National Science Foundation, 4201 Wilson Boulevard, Room 1265, Arlington, Virginia 22230; call (703) 292–8060, or send e-mail to *bgilansh@nsf.gov*.

SUPPLEMENTARY INFORMATION:

Title of Collection: Antarctic emergency response plan and environmental protection information.

OMB Approval Number: 3145–0180.

Abstract: The NSF, pursuant to the Antarctic Conservation Act of 1978 (16 U.S.C. 2401 *et seq.*,) ("ACA") regulates certain non-governmental activities in Antarctica. The ACA was amended in 1996 by the Antarctic Science, Tourism, and Conservation Act. On September 7, 2001, NSF published a final rule in the **Federal Register** (66 FR 46739) implementing certain of these statutory amendments. The rule requires non-governmental Antarctic expeditions using non-U.S flagged vessels to ensure that the vessel owner has an emergency response plan. The rule also requires persons organizing a non-governmental expedition to provide expedition members with information on their environmental protection obligations under the Antarctic Conservation Act.

Expected Respondents. Respondents may include non-profit organizations and small and large businesses. The majority of respondents are anticipated to be U.S. tour operators, currently estimated to number twelve.

Burden on the Public. The Foundation estimates that a one-time paperwork and recordkeeping burden of 40 hours or less, at a cost of $500 to $1400 per respondent, will result from the emergency response plan requirement contained in the rule. Presently, all respondents have been providing expedition members with a copy of the Guidance for Visitors to the Antarctic (prepared and adopted at the Eighteenth Antarctic Treaty Consultative Meeting as Recommendation XVIII–1). Because this Antarctic Treaty System document satisfies the environmental protection information requirements of the rule, no additional burden shall result from the environmental information requirements in the proposed rule.

Dated: August 25, 2004.

Lawrence Rudolph,

General Counsel, National Science Foundation.

[FR Doc. 04–19760 Filed 8–27–04; 8:45 am]

BILLING CODE 7555–01–M

NATIONAL SCIENCE FOUNDATION

NSF–NASA Astronomy and Astrophysics Advisory Committee; Notice of Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92–463, as amended), the National Science Foundation announces the following NSF-NASA-Astronomy and Astrophysics Advisory Committee meeting (#13883):

Date and Time: October 26–27, 2004, 8 a.m.–5 p.m.

Place: National Science Foundation, 4201 Wilson Boulevard, Stafford II Building, Room 555, Arlington, VA 22230.

Type of Meeting: Open.

Contact Person: Dr. G. Wayne Van Citters, Director, Division of Astronomical Sciences, Suite 1045, National Science Foundation, 4201 Wilson Blvd., Arlington, VA 22230. Telephone: (703) 292–4908.

Purpose of Meeting: To provide advice and recommendations to the National Science

Foundation (NSF) and the National Aeronautical and Space Administration (NASA) on issues within the field of astronomy and astrophysics that are of mutual interest and concern to the two agencies.

Agenda: To hear presentations of current programming by representatives from NSF and NASA; to discuss current and potential areas of cooperation between the two agencies; to formulate recommendations for continued and new areas of cooperation and mechanisms for achieving them.

Dated: August 25, 2004.

Susanne E. Bolton,

Committee Management Officer.

[FR Doc. 04–19762 Filed 8–27–04; 8:45 am]

BILLING CODE 7555–01–M

NATIONAL SCIENCE FOUNDATION

Proposal Review; Notice of Meetings

In accordance with the Federal Advisory Committee Act (Pub. L. 92–463, as amended), the National Science Foundation (NSF) announces its intent to hold proposal review meetings throughout the year. The purpose of these meetings is to provide advice and recommendations concerning proposals submitted to the NSF for financial support. The agenda for each of these meetings is to review and evaluate proposals as part of the selection process for awards. The review and evaluation may also include assessment of the progress of awarded proposals. The majority of these meetings will take place at NSF, 4201 Wilson Blvd., Arlington, Virginia 22230.

These meetings will be closed to the public. The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are exempt under 5 U.S.C. 552b(c), (4) and (6) of the Government in the Sunshine Act. NSF will continue to review the agenda and merits of each meeting for overall compliance of the Federal Advisory Committee Act.

These closed proposal review meetings will not be announced on an individual basis in the **Federal Register**. NSF intends to publish a notice similar to this on a quarterly basis. For an advance listing of the closed proposal review meetings that include the names of the proposal review panel and the time, date, place, and any information on changes, corrections, or cancellations, please visit the NSF Web site: *http://www.nsf.gov/home/pubinfo/advisory.htm*. This information may also be requested by telephoning (703) 292–8182.

Dated: August 25, 2004.

Susanne Bolton,

Committee Management Officer.

[FR Doc. 04–19761 Filed 8–27–04; 8:45 am]

BILLING CODE 7555–01–M

NUCLEAR REGULATORY COMMISSION

[Docket No.: 070–364]

Notice of License Termination for the Babcock and Wilcox Facility in Parks Township, Pennsylvania

AGENCY: Nuclear Regulatory Commission.

ACTION: Notice of license termination.

FOR FURTHER INFORMATION CONTACT: Amir Kouhestani, Project Manager, Decommissioning Directorate, Office of Nuclear Materials Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001. Telephone: (301) 415–0023; fax number: (301) 415–5398; e-mail: *aak@nrc.gov*.

This notice is to inform the public that the U.S. Nuclear Regulatory Commission (NRC or Commission) has terminated the Special Nuclear Material License No. SNM–414 (SNM–414), issued to Babcock and Wilcox Company, Pennsylvania Nuclear Service Operation (licensee). The licensee used radioactive material at its facility in Parks Township, Pennsylvania, for conducting fuel fabrication, research and development, and service work from 1960 until 1996. On January 26, 1996, the licensee requested a license amendment authorizing it to decommission the Parks facility. This request and an opportunity for hearing was published in the **Federal Register** on October 10, 1996 (61 FR 53240). The NRC staff published an Environmental Assessment (EA) on July 2, 1997 (62 FR 35844) which concluded that this licensing action would not have a significant adverse effect on the quality of the human environment. NRC approved Revision 3.1 of the Decommissioning Plan (DP) in 1998.

The licensee has completed site decommissioning, and the post decommissioning groundwater monitoring of the site in accordance with the approved DP and the conditions discussed in NRC License No. SNM–414.

Based on the remedial actions taken by the licensee, the NRC staff's review of the licensee's termination surveys, and the results of the NRC staff's confirmatory surveys, the Commission concludes that the licensee has completed the decommissioning activities in accordance with its approved DP, and the site is suitable for unrestricted release.

Dated at Rockville, Maryland, this 24th day of August 2004.

For the Nuclear Regulatory Commission.

Daniel M. Gillen,

Deputy Director for the Decommissioning Directorate, Division of Waste Management and Environmental Protection, Office of Nuclear Material Safety and Safeguards.

[FR Doc. 04–19663 Filed 8–27–04; 8:45 am]

BILLING CODE 7590–01–P

OFFICE OF PERSONNEL MANAGEMENT

Proposed Collection; Comment Request for Review of a Revised Information Collection: RI 78–11

AGENCY: Office of Personnel Management.

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995 (Public Law 104–13, May 22, 1995), this notice announces that the Office of Personnel Management (OPM) intends to submit to the Office of Management and Budget a request for review of a revised information collection. RI 78–11, Medicare Part B Certification, collects information from annuitants, their spouses, and survivor annuitants to determine their eligibility under the Retired Federal Employees Health Benefits Program for a Government contribution toward the cost of Part B of Medicare.

Comments are particularly invited on: whether this collection of information is necessary for the proper performance of functions of OPM, and whether it will have practical utility; whether our estimate of the public burden of this collection is accurate, and based on valid assumptions and methodology; and ways in which we can minimize the burden of the collection of information on those who are to respond, through use of the appropriate technological collection techniques or other forms of information technology.

Approximately 100 RI 78–11 forms are completed annually. Each form requires approximately 10 minutes to complete. The annual estimated burden is 17 hours.

For copies of this proposal, contact Mary Beth Smith-Toomey on (202) 606–8358, Fax (202) 418–3251 or via e-mail to *mbtoomey@opm.gov*. Please include a mailing address with your request.

DATES: Comments on this proposal should be received within 60 calendar days from the date of this publication.

ADDRESSES: Send or deliver comments to: Ronald W. Melton, Deputy Assistant Director, Retirement Services Program, Center for Retirement and Insurance Services, U.S. Office of Personnel Management, 1900 E Street, NW., Room 3305, Washington, DC 20415–3540.

FOR INFORMATION REGARDING ADMINISTRATIVE COORDINATION CONTACT: Cyrus S. Benson, Team Leader, Publications Team, RIS Support Services/Support Group, (202) 606–0623.

U.S. Office of Personnel Management.

Kay Coles James,

Director.

[FR Doc. 04–19635 Filed 8–27–04; 8:45 am]

BILLING CODE 6325–38–P

OFFICE OF PERSONNEL MANAGEMENT

Proposed Collection; Comment Request for Review of a Revised Information Collection: RI 25–37

AGENCY: Office of Personnel Management.

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995 (Public Law 104–13, May 22, 1995), this notice announces that the Office of Personnel Management (OPM) intends to submit to the Office of Management and Budget a request for review of a revised information collection. RI 25–37, Evidence to Prove Dependency of a Child, is designed to collect sufficient information for OPM to determine whether the surviving child of a deceased federal employee is eligible to receive benefits as a dependent child.

Comments are particularly invited on: Whether this collection of information is necessary for the proper performance of functions of OPM, and whether it will have practical utility; whether our estimate of the public burden of this collection is accurate, and based on valid assumptions and methodology; and ways in which we can minimize the burden of the collection of information on those who are to respond, through use of the appropriate technological collection techniques or other forms of information technology.

Approximately 250 forms are completed annually. We estimate it takes approximately 60 minutes to assemble the needed documentation. The annual estimated burden is 250 hours.

For copies of this proposal, contact Mary Beth Smith-Toomey on (202) 606–8358, FAX (202) 418–3251 or via e-mail to *mbtoomey@opm.gov*. Please include a mailing address with your request.

DATES: Comments on this proposal should be received within 60 calendar days from the date of this publication.

ADDRESSES: Send or deliver comments to—Ronald W. Melton, Deputy Assistant Director, Retirement Services Program, Center for Retirement and Insurance Services, U.S. Office of Personnel Management, 1900 E Street, NW., Room 3305, Washington, DC 20415–3540.

FOR INFORMATION REGARDING ADMINISTRATIVE COORDINATION—CONTACT: Cyrus S. Benson, Team Leader, Publications Team, RIS Support Services/Support Group, (202) 606–0623.

U.S. Office of Personnel Management.

Kay Coles James,

Director.

[FR Doc. 04–19636 Filed 8–27–04; 8:45 am]

BILLING CODE 6325–38–P

OFFICE OF PERSONNEL MANAGEMENT

Proposed Collection; Comment Request for Review of a Revised Information Collection: RI 38–45

AGENCY: Office of Personnel Management.

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995 (Pub. L. 104–13, May 22, 1995), this notice announces that the Office of Personnel Management (OPM) intends to submit to the Office of Management and Budget a request for review of a revised information collection. RI 38–45, We Need the Social Security Number of the Person Named Below, is used by the Civil Service Retirement System and the Federal Employees' Retirement System to identify the records of individuals with similar or the same names. It is also needed to report payments to the Internal Revenue Service.

Comments are particularly invited on: whether this collection of information is necessary for the proper performance of functions of OPM, and whether it will have practical utility; whether our estimate of the public burden of this collection is accurate, and based on valid assumptions and methodology; and ways in which we can minimize the burden of the collection of information on those who are to respond, through use of the appropriate technological collection techniques or other forms of information technology.

Approximately 3,000 RI 38–45 forms are completed annually. Each form requires approximately 5 minutes to complete. The annual estimated burden is 250 hours.

For copies of this proposal, contact Mary Beth Smith-Toomey on (202) 606–8358, FAX (202) 418–3251 or via e-mail to *mbtoomey@opm.gov*. Please include a mailing address with your request.

DATES: Comments on this proposal should be received within 60 calendar days from the date of this publication.

ADDRESSES: Send or deliver comments to: Ronald W. Melton, Deputy Assistant Director, Retirement Services Program, Center for Retirement and Insurance Services, U.S. Office of Personnel Management, 1900 E Street, NW., Room 3305, Washington, DC 20415–3540.

FOR INFORMATION REGARDING ADMINISTRATIVE COORDINATION—CONTACT: Cyrus S. Benson, Team Leader, Publications Team, RIS Support Services/Support Group, (202) 606–0623.

U.S. Office of Personnel Management.

Kay Coles James,

Director.

[FR Doc. 04–19637 Filed 8–27–04; 8:45 am]

BILLING CODE 6325–38–P

OFFICE OF PERSONNEL MANAGEMENT

Proposed Collection: Comment Request for Review of a Revised Information Collection: Procedures for Submitting Compensation and Leave Claims, OPM 1673

AGENCY: U.S. Office of Personnel Management.

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995 (Public Law 104–13, May 22, 1995), this notice announces that the U.S. Office of Personnel Management (OPM) intends to submit to the Office of Management and Budget (OMB) a request for review of a revised information collection. Procedures for Submitting Compensation and Leave Claims, OPM 1673, is used to collect information from current and former Federal employees who are submitting a claim for compensation and/or leave. OPM needs this information in order to adjudicate the claim.

Approximately 100 claims are submitted annually. It takes approximately 60 minutes to compile the information needed to submit a

claim. The annual estimated burden is 100 hours.

Comments are particularly invited on:

—Whether this collection of information is necessary for the proper performance of functions of OPM, and whether it will have practical utility;

—Whether our estimate of the public burden of this collection is accurate, and based on valid assumptions and methodology; and

—Ways in which we can minimize the burden of the collection of information on those who are to respond, through use of the appropriate technological collection techniques or other forms of information technology.

For copies of this proposal, contact Mary Beth Smith-Toomey on (202) 606–8358, FAX (202) 418–3251, or e-mail to *mbtoomey@opm.gov*. Please include a mailing address with your request.

DATES: Comments on this proposal should be received within 60 calendar days from the date of this publication.

ADDRESSES: Send or deliver comments to—Robert D. Hendler, Acting Program Manager, Center for Merit Systems Compliance, Division for Human Capital Leadership and Merit System Compliance Group, U.S. Office of Personnel Management, 1900 E Street, NW., Room 7465, Washington, DC 20415.

Office of Personnel Management.

Kay Coles James,

Director.

[FR Doc. 04–19640 Filed 8–27–04; 8:45 am]

BILLING CODE 6325–27–P

OFFICE OF PERSONNEL MANAGEMENT

Federal Salary Council

AGENCY: Office of Personnel Management.

ACTION: Notice of meeting.

SUMMARY: The Federal Salary Council will meet at the time and location shown below. The Council is an advisory body composed of representatives of Federal employee organizations and experts in the fields of labor relations and pay policy. The Council makes recommendations to the President's Pay Agent (the Secretary of Labor and the Directors of the Office of Management and Budget and the Office of Personnel Management) about the locality pay program for General Schedule employees under section 5304 of title 5, United States Code. The Council's recommendations cover the establishment or modification of locality pay areas, the coverage of salary surveys, the process of comparing Federal and non-Federal rates of pay, and the level of comparability payments that should be paid.

The Council will review the results of pay comparisons and formulate its recommendations to the President's Pay Agent on pay comparison methods, locality pay rates, and locality pay area boundaries for 2006. The Council anticipates it will complete its work for this year at this meeting and has not scheduled any additional meetings for 2004. The public may submit written materials about the locality pay program to the Council at the address shown below. The meeting is open to the public.

DATES: September 27, 2004, at 10 a.m.

Location: Office of Personnel Management, 1900 E Street NW., Room 1350, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Donald J. Winstead, Deputy Associate Director for Pay and Performance Policy, Office of Personnel Management, 1900 E Street NW., Room 7H31, Washington, DC 20415–8200. Phone (202) 606–2838; FAX (202) 606–4264; or e-mail at *pay-performance-policy@opm.gov*.

For the President's Pay Agent:

Kay Coles James,

Director.

[FR Doc. 04–19634 Filed 8–27–04; 8:45 am]

BILLING CODE 6325–39–P

OFFICE OF PERSONNEL MANAGEMENT

Civil Service Retirement System; Present Value Factors

AGENCY: Office of Personnel Management.

ACTION: Notice.

SUMMARY: The Office of Personnel Management (OPM) is providing notice of adjusted present value factors applicable to retirees who elect to provide survivor annuity benefits to a spouse based on post-retirement marriage and to retiring employees who elect the alternative form of annuity, owe certain redeposits based on refunds of contributions for service before October 1, 1990, or elect to credit certain service with nonappropriated fund instrumentalities. This notice is necessary to conform the present value factors to changes in economic assumptions and demographic factors adopted by the Board of Actuaries of the Civil Service Retirement System.

EFFECTIVE DATES: The revised present value factors apply to survivor reductions or employee annuities that commence on or after October 1, 2004.

ADDRESSES: Send requests for actuarial assumptions and data to the Actuaries Group, Room 4307 STOP, Office of Personnel Management, Washington, DC 20415.

FOR FURTHER INFORMATION CONTACT: Patrick Jennings, (202) 606–0299.

SUPPLEMENTARY INFORMATION: On September 24, 2003, OPM published (68 FR 55296) a notice in the **Federal Register** to revise the normal cost percentage under the Federal Employees Retirement System (FERS) Act of 1986, Public Law 99–335, based on changed economic assumptions and demographic factors adopted by the Board of Actuaries of the Civil Service Retirement System (CSRS). Those changed economic assumptions (principally the change in expected investment return from 6.75 percent to 6.25 percent) require corresponding changes in factors used to produce actuarially equivalent benefits when required by the CSRS Act.

Several provisions of CSRS require reduction of annuities on an actuarial basis. Under each of these provisions, OPM is required to issue regulations on the method of determining the reduction to ensure that the present value of the reduced annuity plus a lump-sum equals, to the extent practicable, the present value of the unreduced benefit. The regulations for each of these benefits provide that OPM will publish a notice in the **Federal Register** whenever it changes the factors used to compute the present values of these benefits.

Section 831.2205(a) of Title 5, Code of Federal Regulations, prescribes the method for computing the reduction in the beginning rate of annuity payable to a retiree who elects an alternative form of annuity under 5 U.S.C. 8343a. That reduction is required to produce an annuity that is the actuarial equivalent of the annuity of a retiree who does not elect an alternative form of annuity. The present value factors listed below are used to compute the annuity reduction under section 831.2205(a) of Title 5, Code of Federal Regulations.

Section 831.303(c) of Title 5, Code of Federal Regulations, prescribes the use of these factors for computing the reduction to complete payment of certain redeposits of refunded deductions based on periods of service that ended before October 1, 1990, under section 8334(d)(2) of title 5, United States Code.

Section 831.663 of Title 5, Code of Federal Regulations, prescribes the use of similar factors for computing the reduction required for certain elections to provide survivor annuity benefits based on a post-retirement marriage under section 8339(j)(5)(C) or (k)(2) of title 5, United States Code. Under section 11004 of the Omnibus Budget Reconciliation Act of 1993, Public Law 103–66, effective October 1, 1993, OPM ceased collection of these survivor election deposits by means of either a lump sum payment or by installments. Instead, OPM is required to establish a permanent actuarial reduction in the annuity of the retiree. This means that OPM must take the amount of the deposit computed under the old law, and "translate" it into a lifetime reduction in the retiree's benefit. The reduction is based on actuarial tables, similar to those used for alternative forms of annuity under section 8343a of title 5, United States Code.

Subpart F of part 847 of Title 5, Code of Federal Regulations, prescribes the use of similar factors for computing the deficiency the retiree must pay to receive credit for certain service with nonappropriated fund instrumentalities made creditable by an election under section 1043 of Public Law 104–106.

The present value factors currently in effect were published by OPM (67 FR 31708) on May 9, 2002. The revised factors will become effective in October 2004 to correspond with the changes in FERS normal cost percentages. For alternative forms of annuity and redeposits of employee contributions, the new factors will apply to annuities that commence on or after October 1, 2004. See 5 CFR 831.2205 and 831.303(c). For survivor election deposits, the new factors will apply to survivor reductions that commence on or after October 1, 2004. See 5 CFR 831.663(c) and (d). For obtaining credit for service with certain nonappropriated fund instrumentalities, the new factors will apply to cases in which the date of computation under section 847.603 of Title 5, Code of Federal Regulations, is on or after October 1, 2004. See 5 CFR 847.602(c) and 847.603.

OPM is, therefore, revising the tables of present value factors to read as follows:

CSRS PRESENT VALUE FACTORS APPLICABLE TO ANNUITY PAYABLE FOLLOWING AN ELECTION UNDER SECTION 8339 (j) OR (k) OR SECTION 8343a OF TITLE 5, UNITED STATES CODE, OR UNDER SECTION 1043 OF PUBLIC LAW 104–106 OR FOLLOWING A REDEPOSIT UNDER SECTION 8334(d)(2) OF TITLE 5, UNITED STATES CODE

Age	Present value factor
40	277.6
41	274.7
42	272.1
43	269.1
44	265.0
45	260.0
46	255.1
47	250.8
48	245.9
49	240.3
50	234.8
51	230.2
52	225.9
53	221.4
54	216.8
55	211.9
56	207.2
57	202.3
58	197.6
59	193.1
60	188.7
61	183.7
62	178.3
63	173.2
64	168.2
65	163.0
66	157.9
67	153.1
68	148.0
69	142.8
70	138.0
71	133.1
72	128.0
73	123.1
74	118.4
75	113.5
76	108.2
77	103.2
78	98.2
79	93.1
80	88.4
81	83.6
82	78.4
83	73.7
84	69.5
85	65.8
86	62.0
87	57.9
88	54.0
89	50.7
90	47.2

CSRS PRESENT VALUE FACTORS APPLICABLE TO ANNUITY PAYABLE FOLLOWING AN ELECTION UNDER SECTION 1043 OF PUBLIC LAW 104–106 (FOR AGES AT CALCULATION BELOW 40)

Age at calculation	Present value of a monthly annuity
17	334.7
18	332.5
19	330.1
20	327.7
21	325.2
22	322.6
23	320.0
24	317.3
25	314.5
26	311.6
27	308.7
28	305.6
29	303.2
30	301.9
31	300.5
32	298.0
33	295.3
34	292.8
35	290.0
36	287.1
37	284.3
38	281.3
39	278.3

Office of Personnel Management.

Kay Coles James,

Director.

[FR Doc. 04–19639 Filed 8–27–04; 8:45 am]

BILLING CODE 6325–38–P

OFFICE OF PERSONNEL MANAGEMENT

Federal Employees' Retirement System; Present Value Factors

AGENCY: Office of Personnel Management.

ACTION: Notice.

SUMMARY: The Office of Personnel Management (OPM) is providing notice of adjusted present value factors applicable to retirees who elect to provide survivor annuity benefits to a spouse based on post-retirement marriage, and to retiring employees who elect the alternative form of annuity or elect to credit certain service with nonappropriated fund instrumentalities. This notice is necessary to conform the present value factors to changes in economic assumptions and demographic factors adopted by the Board of Actuaries of the Civil Service Retirement System.

DATES: The revised present value factors apply to survivor reductions or

employee annuities that commence on or after October 1, 2004.

ADDRESSES: Send requests for actuarial assumptions and data to the Actuaries Group, Room 4307, Office of Personnel Management, 1900 E Street, NW., Washington, DC 20415.

FOR FURTHER INFORMATION CONTACT: Patrick Jennings, (202) 606–0299.

SUPPLEMENTARY INFORMATION: On September 24, 2003, OPM published a notice in the **Federal Register** at 68 FR 55296 to revise the normal cost percentage under the Federal Employees' Retirement System (FERS) Act of 1986, Public Law 99–335, 100 Stat. 514, based on changed economic assumptions and demographic factors adopted by the Board of Actuaries of the Civil Service Retirement System. Under 5 U.S.C. 8461(i), those changed economic assumptions (principally the change in expected investment return from 6.75 percent to 6.25 percent) require corresponding changes in the present value factors used to produce actuarially equivalent benefits when required by the FERS Act.

Several provisions of FERS require reduction of annuities on an actuarial basis. Under each of these provisions, OPM is required to issue regulations on the method of determining the reduction to ensure that the present value of the reduced annuity plus a lump-sum equals, to the extent practicable, the present value of the unreduced benefit. The regulations for each of these benefits provide that OPM will publish a notice in the **Federal Register** whenever it changes the factors used to compute the present values of these benefits.

Section 842.706(a) of title 5, Code of Federal Regulations, prescribes the method for computing the reduction in the beginning rate of annuity payable to a retiree who elects an alternative form of annuity under 5 U.S.C. 8420a. That reduction is required to produce an annuity that is the actuarial equivalent of the annuity of a retiree who does not elect an alternative form of annuity. The present value factors listed below are used to compute the annuity reduction under 5 CFR 842.706(a).

Section 842.615 of title 5, Code of Federal Regulations, prescribes the use of these factors for computing the reduction required for certain elections to provide survivor annuity benefits based on a post-retirement marriage or divorce under 5 U.S.C. 8416(b), (c), or 8417(b). Under section 11004 of the Omnibus Budget Reconciliation Act of 1993, Public Law 103–66, 107 Stat. 312, effective October 1, 1993, OPM ceased collection of these survivor election deposits by means of either a lump sum payment or by installments. Instead, OPM is required to establish a permanent actuarial reduction in the annuity of the retiree. This means that OPM must take the amount of the deposit computed under the old law, and "translate" it into a lifetime reduction in the retiree's benefit. The reduction is based on actuarial tables, similar to those used for alternative forms of annuity under section 8420a of title 5, United States Code.

Subpart F of part 847 of title 5, Code of Federal Regulations, prescribes the use of similar factors for computing the deficiency the retiree must pay to receive credit for certain service with nonappropriated fund instrumentalities made creditable by an election under section 1043 of Public Law 104–106, 110 Stat. 186.

OPM published the present value factors currently in effect on May 9, 2002, at 67 FR 31708. The revised factors will become effective in October 2004 to correspond with the changes in FERS normal cost percentages. For alternative forms of annuity, the new factors will apply to annuities that commence on or after October 1, 2004. See 5 CFR 842.706. For survivor election deposits, the new factors will apply to survivor reductions that commence on or after October 1, 2004. See 5 CFR 842.615(b). For obtaining credit for service with certain nonappropriated fund instrumentalities, the new factors will apply to cases in which the date of computation under 5 CFR 847.603, is on or after October 1, 2004. See 5 CFR 847.602(c) and 847.603.

OPM is, therefore, revising the tables of present value factors to read as follows:

TABLE I.—FERS PRESENT VALUE FACTORS FOR AGES 62 AND OLDER

[Applicable to annuity payable following an election under 5 U.S.C. 8416(b), 8416(c), 8417(b), or 8420a, or under section 1043 of Public Law 104–106]

Age	Present value factor
62	167.5
63	163.0
64	158.5
65	154.0
66	149.4
67	145.1
68	140.5
69	135.9
70	131.5
71	127.0
72	122.4
73	118.0
74	113.6
75	109.0

TABLE I.—FERS PRESENT VALUE FACTORS FOR AGES 62 AND OLDER—Continued

[Applicable to annuity payable following an election under 5 U.S.C. 8416(b), 8416(c), 8417(b), or 8420a, or under section 1043 of Public Law 104–106]

Age	Present value factor
76	104.1
77	99.5
78	94.9
79	90.1
80	85.7
81	81.1
82	76.2
83	71.8
84	67.8
85	64.2
86	60.6
87	56.7
88	52.9
89	49.7
90	46.4

TABLE II.A.—FERS PRESENT VALUE FACTORS FOR AGES 40 THROUGH 61

[Applicable to annuity payable when annuity is not increased by cost of living adjustments before age 62 following an election under 5 U.S.C. 8416(b), 8416(c), 8417(b), or 8420a, or under section 1043 of Public Law 104–106]

Age	Present value factor
40	185.6
41	185.3
42	185.2
43	184.9
44	184.1
45	182.8
46	181.6
47	180.7
48	179.5
49	177.9
50	176.4
51	175.4
52	174.7
53	174.1
54	173.3
55	172.5
56	171.8
57	171.2
58	170.7
59	170.5
60	170.5
61	170.1

TABLE II.B.—FERS PRESENT VALUE FACTORS FOR AGES 40 THROUGH 61

[Applicable to annuity payable when annuity is increased by cost of living adjustments before age 62 following an election under 5 U.S.C. 8416(b), 8416 (c), 8417(b), or 8420a, or under section 1043 of Public Law 104–106]

Age	Present value factor
40	249.1
41	245.8
42	242.5
43	239.0
44	235.4
45	231.8
46	227.9
47	223.9
48	219.8
49	215.5
50	211.7
51	208.3
52	204.7
53	201.1
54	197.3
55	193.5
56	189.5
57	185.4
58	181.2
59	176.9
60	172.6
61	168.2

TABLE III.—FERS PRESENT VALUE FACTORS FOR AGES AT CALCULATION BELOW 40

[Applicable to annuity payable following an election under section 1043 of Public Law 104–106]

Age at calculation	Present value of a monthly annuity
17	293.2
18	291.6
19	289.9
20	288.1
21	286.2
22	284.3
23	282.4
24	280.3
25	278.2
26	276.0
27	273.8
28	271.4
29	269.6
30	268.8
31	267.8
32	266.0
33	264.0
34	262.1
35	260.0
36	257.8
37	255.7
38	253.4
39	251.0

Kay Coles James,

Director.

[FR Doc. 04–19638 Filed 8–27–04; 8:45 am]

BILLING CODE 6325–38–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 15a–4; SEC File No. 270–7; OMB Control No. 3235–0010

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 15a–4 (17 CFR 240.15a–4) under the Securities Exchange Act of 1934 (the "Exchange Act") permits a natural person member of a securities exchange who terminates his or her association with a registered broker-dealer to continue to transact business on the exchange while the Commission reviews his or her application for registration as a broker-dealer if the exchange files a statement indicating that there does not appear to be any ground for disapproving the application. The total annual burden imposed by Rule 15a–4 is approximately 106 hours, based on approximately 25 responses (25 Respondents × 1 Response/Respondent), each requiring approximately 4.23 hours to complete.

The Commission uses the information disclosed by applicants in Form BD: (1) To determine whether the applicant meets the standards for registration set forth in the provisions of the Exchange Act; (2) to develop a central information resource where members of the public may obtain relevant, up-to-date information about broker-dealers, municipal securities dealers and government securities broker-dealers, and where the Commission, other regulators and SROs may obtain information for investigatory purposes in connection with securities litigation; and (3) to develop statistical information about broker-dealers, municipal securities dealers and government securities broker-dealers. Without the information disclosed in Form BD, the Commission could not effectively implement policy objectives of the Exchange Act with respect to its investor protection function.

The statement submitted by the exchange assures the Commission that the applicant, in the opinion of the exchange, is qualified to transact business on the exchange during the time that the applications are reviewed.

Completing and filing Form BD is mandatory in order for a natural person member of a securities exchange who terminates his or her association with a registered broker-dealer to obtain the 45-day extension under Rule 15a–4. Compliance with Rule 15a–4 does not involve the collection of confidential information. Please note that 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: (a) Desk Officer for the Securities and Exchange Commission by sending an e-mail to: *David_Rostker@omb.eop.gov*, and (b) R. Corey Booth, Director/Chief Information Officer, Office of Information Technology, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Comments must be submitted to OMB within 30 days of this notice.

August 23, 2004.

Jill M. Peterson,

Assistant Secretary.

[FR Doc. E4–1966 Filed 8–27–04; 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:

Form BD/Rule 15b1–1; SEC File No. 270–19; OMB Control No. 3235–0012

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.

Form BD (17 CFR 249.501) under the Securities Exchange Act of 1934 (the "Exchange Act") is the application form used by firms to apply to the Commission for registration as a broker-dealer. Form BD also is used by firms other than banks and registered broker-dealers to apply to the Commission for registration as a municipal securities dealer or a government securities broker-dealer. In addition, Form BD is used to change information contained in a previous Form BD filing that becomes inaccurate.

The total annual burden imposed by Form BD is approximately 8,250 hours, based on approximately 20,600 responses (600 initial filings + 20,000 amendments). Each initial filing requires approximately 2.75 hours to complete and each amendment requires approximately 20 minutes to complete. There is no annual cost burden.

The Commission uses the information disclosed by applicants in Form BD: (1) To determine whether the applicant meets the standards for registration set forth in the provisions of the Exchange Act; (2) to develop a central information resource where members of the public may obtain relevant, up-to-date information about broker-dealers, municipal securities dealers and government securities broker-dealers, and where the Commission, other regulators and SROs may obtain information for investigatory purposes in connection with securities litigation; and (3) to develop statistical information about broker-dealers, municipal securities dealers and government securities broker-dealers. Without the information disclosed in Form BD, the Commission could not effectively implement policy objectives of the Exchange Act with respect to its investor protection function.

Completing and filing Form BD is mandatory in order to engage in broker-dealer activity. Compliance with Rule 15b1–1 does not involve the collection of confidential information. Please note that 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: (a) Desk Officer for the Securities and Exchange Commission by sending an e-mail to: *David_Rostker@omb.eop.gov,* and (b) R. Corey Booth, Director/Chief Information Officer, Office of Information Technology, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Comments must be submitted to OMB within 30 days of this notice.

August 23, 2004.

Jill M. Peterson,

Assistant Secretary.

[FR Doc. E4–1967 Filed 8–27–04; 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 45; File No.: 270–164. OMB Control No.: 3235–0154

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 45 imposes a filing requirement on registered holding companies and their subsidiaries under section 12(b) of the Act. Under the requirement, the companies must file a declaration seeking authority to make loans or otherwise extend credit to other companies in the same holding company system. Among others, the rule excepts from the filing requirement the performance of payment obligations under consolidated tax agreements. The 15 recordkeepers together incur about 46 annual burden hours to comply with these requirements.

The estimates of average burden hours are made for the purposes of the Paperwork Reduction Act and are not derived from a comprehensive or even a representative survey or study of the costs of Commission rules and forms.

Written comments are invited on: (1) 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) the accuracy of the agency's estimate of the burden of the collection of information; (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 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, Office of Information Technology, Securities and Exchange Commission, 450 5th Street, NW., Washington, DC 20549.

Dated: August 23, 2004.

Jill M. Peterson,

Assistant Secretary.

[FR Doc. E4–1963 Filed 8–27–04; 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 58 and Form U–9C–3; SEC File No.: 270–400; OMB Control No.: 3235–0457

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 ("OMB") for extension and approval.

Rule 58 [17 CFR 250.58], under the Public Utility Holding Company Act of 1935 ("Act"), as amended (15 U.S.C. 79 *et seq.*) allows registered holding companies and their subsidiaries to acquire energy-related and gas-related companies. Under that rule, acquisitions are made, within certain limits, without prior Commission approval under section 10 of the Act. To monitor compliance, the rule requires that within sixty days after the end of the first calendar quarter in which any exempt acquisition is made, and each calendar quarter thereafter, the registered holding company is required to file with the Commission a Certificate of Notification on Form U–9C–3 containing the information prescribed by that form. The information collection by the Commission is required by rule 58. The Commission uses this information to determine the existence of financial detriment, regarding the

acquisition of certain energy-related companies, to the interests the Act is designed to protect. The Commission estimates that the total annual reporting burden is 464 annual burden hours to comply with these requirements, *i.e.*, 29 respondents × 16 = 464 burden hours.

The estimates of average burden hours are made for the purposes of the Paperwork Reduction Act and are not derived from a comprehensive or even a representative survey or study of the costs of Commission rules and forms.

Written comments are invited on: (1) 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) the accuracy of the agency's estimate of the burden of the collection of information; (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 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, Office of Information Technology, Securities and Exchange Commission, 450 5th Street, NW., Washington, DC 20549.

Dated: August 23, 2004.

Jill M. Peterson,

Assistant Secretary.

[FR Doc. E4–1964 Filed 8–27–04; 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 71, Form U–12(I)–A and Form U–12(I)–B; SEC File No. 270–61; OMB Control No. 3235–0173

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 ("OMB") for extension and approval.

Rule 71 [17 CFR 250.71], under the Public Utility Holding Company Act of 1935, as amended ("Act"), (15 U.S.C. 79 *et seq.*), requires that certain information be filed by employees of registered holding companies who represent the companies' interests before Congress, the Commission or the Federal Energy Regulatory Commission on either Form U–12(I)–A or Form U–12(I)–B. The filings must provide, among other things, the identity of the representative, the person's position and compensation and a quarterly statement of those expenses not incurred in the ordinary course of business. Employees appearing for the first time must file this information on Form U–12(I)–A within ten days of an appearance. Employees appearing on a regular basis may file the information in advance on Form U–12(I)–B, which will remain valid for the remainder of the year in which it was first filed and for the following two calendar years. Thereafter, it may be renewed for additional three-year periods within thirty days of the expiration of the prior filing.

The information collection prescribed by Form U–12(I)–A and Form U–12(I)–B is required by rule 71 under the Act. Rule 71 implements section 12(i) of the Act, which expressly requires the filing of the prescribed disclosure information with the Commission in the interest of investors and consumers. The Commission estimates that the total annual reporting burden of collections under rule 71 is 167 hours (250 responses × forty minutes = 167 burden hours).

The estimates of average burden hours are made for the purposes of the Paperwork Reduction Act and are not derived from a comprehensive or even a representative survey or study of the costs of Commission rules and forms.

Written comments are invited on: (1) 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) the accuracy of the agency's estimate of the burden of the collection of information; (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 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, Office of Information Technology, Securities and Exchange Commission, 450 5th Street, NW., Washington, DC 20549.

August 23, 2004.

Jill M. Peterson,

Assistant Secretary.

[FR Doc. E4–1965 Filed 8–27–04; 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 15Bc3–1 and Form MSDW; SEC File No. 270–93; OMB Control No. 3235–0087

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 ("OMB") a request for approval of extension of the previously approved collection of information discussed below.

Rule 15Bc3–1 under the Securities Exchange Act of 1934 provides that a notice of withdrawal from registration with the Commission as a bank municipal securities dealer must be filed on Form MSDW.

The Commission uses the information submitted on Form MSDW in determining whether it is in the public interest to permit a bank municipal securities dealer to withdraw its registration. This information is also important to the municipal securities dealer's customers and to the public, because it provides, among other things, the name and address of a person to contact regarding any of the municipal securities dealer's unfinished business.

Based upon past submissions, the staff estimates that approximately 20 respondents will utilize this notice annually, with a total burden for all respondents of 10 hours. The staff estimates that the average number of hours necessary to comply with the requirements of Rule 15Bc3–1 is 0.5 hours. The average cost per hour is approximately $101. Therefore, the total cost of compliance for the respondents is $1010 ($101 × 0.5 × 20 = $1010).

Providing the information on the notice is mandatory in order to withdraw from registration with the Commission as a bank municipal securities dealer. The information contained in the notice will not be 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, by sending an e-mail to: *David_Rostker@omb.eop.gov* and (ii) R. Corey Booth, Director/Chief Information Officer, Office of Information Technology, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Comments must be submitted to OMB within 30 days of this notice.

August 23, 2004.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. E4–1968 Filed 8–27–04; 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 15Ba2–1 and Form MSD;SEC File No. 270–0088; OMB Control No. 3235–0083

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 15Ba2–1 under the Securities Exchange Act of 1934 ("Exchange Act") provides that an application for registration with the Commission by a bank municipal securities dealer must be filed on Form MSD. The Commission uses the information contained in Form MSD to determine whether bank municipal securities dealers meet the standards for registration set forth in the Exchange Act, to develop a central registry where members of the public may obtain information about particular bank municipal securities dealers, and to develop statistical information about bank municipal securities dealers.

Based upon past submissions, the staff estimates that approximately 32 respondents will utilize this application procedure annually, with a total burden of 48 hours. The staff estimates that the average number of hours necessary to comply with the requirements of Rule 15Ba2–1 is 1.5 hours. The average cost per hour is approximately $67. Therefore, the total cost of compliance for the respondents is approximately $3,216.

Rule 15Ba2–1 does not contain an explicit recordkeeping requirement, but the rule does require the prompt correction of any information on Form MSD that becomes inaccurate, meaning that bank municipal securities dealers need to maintain a current copy of Form MSD indefinitely.

Providing the information on the application is mandatory in order to register with the Commission as a bank municipal securities dealer. The information contained in the application 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.

General comments regarding the estimated burden hours 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, by sending an e-mail to: *David_Rostker@omb.eop.gov*; and (ii) R. Corey Booth, Director/Chief Information Officer, Office of Information Technology, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Comments must be submitted to OMB within 30 days of this notice.

August 23, 2004.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. E4–1969 Filed 8–27–04; 8:45 am]

BILLING CODE 8010–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–50253; File No. PCAOB–2004–05]

Public Company Accounting Oversight Board; Order Approving Proposed Auditing Standard No. 3, *Audit Documentation*, and an Amendment to Interim Auditing Standards—AU sec. 543, *Part of Audit Performed by Other Independent Auditors*

August 25, 2004.

I. Introduction

On June 18, 2004, the Public Company Accounting Oversight Board (the "Board" or the "PCAOB") filed with the Commission proposed Auditing Standard No. 3, *Audit Documentation* ("Auditing Standard No. 3"), pursuant to the Sarbanes-Oxley Act of 2002 (the "Act") [1] and Section 19(b) of the Securities Exchange Act of 1934 (the "Exchange Act"). Auditing Standard No. 3 would establish general requirements for documentation the auditors should prepare and retain in connection with engagements conducted pursuant to the standards of the PCAOB. Also, in connection with proposed Auditing Standard No. 3, the Board proposed an amendment to paragraph 12 of AU sec. 543, addressing appropriate audit documentation when a principal auditor decides not to make reference to the work of other auditors that have performed part of the audit work. AU sec. 543 is one of the interim auditing standards adopted by the PCAOB in April 2003.[2] Notice of proposed Auditing Standard No. 3 and proposed amendment to AU sec. 543 (collectively referred to as the "Proposed Standard") was published in the *Federal Register* on July 20, 2004,[3] and the Commission received eight comment letters. For the reasons discussed below, the Commission is granting approval of the Proposed Standard.

II. Description

The Act establishes the PCAOB to oversee the audits of public companies and related matters, to protect investors, and to further the public interest in the preparation of informative, accurate and independent audit reports.[4] Section

[1] Sections 101, 103 and 107 of the Act.

[2] The Commission approved the PCAOB's adoption of the interim standards in Release No. 34–47745, Order Regarding Section 103(a)(3)(B) of the Sarbanes-Oxley Act of 2002 (April 25, 2003).

[3] Release No. 34–50012 (July 14, 2004); 69 FR 43468 (July 20, 2004).

[4] Section 101(a) of the Act.

103(a) of the Act directs the PCAOB to establish auditing and related attestation standards, quality control standards, and ethics standards to be used by registered public accounting firms in the preparation and issuance of audit reports as required by the Act or the rules of the Commission.

Section 103(a)(2)(A)(i) of the Act expressly directs the Board to establish auditing standards that require registered public accounting firms to prepare and maintain, for at least seven years, audit documentation "in sufficient detail to support the conclusions reached" in the auditor's report.[5] The Board's proposed Auditing Standard No. 3 establishes general requirements for documentation the auditor should prepare and retain in connection with engagements conducted pursuant to the standards of the PCAOB. Such engagements include an audit of financial statements, an audit of internal control over financial reporting, and a review of interim financial information. Proposed Auditing Standard No. 3 requires that auditors document procedures performed, evidence obtained, and conclusions reached. In addition, audit firms must retain audit documentation for seven years from the date the auditor grants permission to use the auditor's report in connection with the issuance of the company's financial statements ("report release date"). This standard states that, if approved by the Commission, it would be effective for audits of financial statements with fiscal years ending on or after the later of November 15, 2004 or 30 days after the date of approval of the standard by the Commission.

The Board's proposed amendment to AU sec. 543 imposes unconditional responsibility on the principal auditor to obtain certain audit documentation from another auditor (who, though not named in the audit report, has performed part of the audit work used by the principal auditor) prior to the audit report release date. In addition, the amendment provides that the principal auditor should consider performing one or more of the procedures listed in the amendment to paragraph 12 of AU sec. 543, such as discussing the audit procedures and related results with the other auditor and reviewing the audit programs of the other auditor.

[5] Section 802 of the Act also directs the Commission to adopt rules requiring auditors to retain for seven years workpapers and other documentation related to audits or reviews of issuer financial statements. The Commission adopted final rules pursuant to Section 302 in January 2003. See Rule 2–06 of Regulation S–X; Release No. 34–47241 (January 24, 2003). The Commission's rules, which are aimed at preventing the destruction of audit records and facilitating the Commission's enforcement efforts, require retention of a broader set of documents than the Board's Proposed Standard, in that the Commission's rules require the retention of memoranda, correspondence and other documentation that are not traditionally considered "workpapers."

III. Discussion

The Commission's comment period on the Proposed Standard ended on August 10, 2004, with the Commission receiving eight comment letters. The comment letters came from five registered public accounting firms and three professional associations.

In general, commenters expressed appreciation for changes made by the PCAOB to its initially proposed standard. Four commenters expressed concern with the proposed effective date and recommend the final standard be effective for periods *beginning* on or after November 15, 2004. As currently proposed, the effective date of the Proposed Standard would apply to audits of financial statements with fiscal years *ending* on or after the later of November 15, 2004 or 30 days after the date of approval of the standard by the Commission (emphasis added). These commenters noted that most audits of 2004 financial statements (as well as audits of internal control over financial reporting for accelerated filers) ending on or after November 15, 2004 will have commenced prior to the proposed effective date. Specifically, they believe it is not practical to require retroactive application of the Proposed Standard to audits in process at the effective date, particularly on audits of large, multi-national corporations.

One commenter expressed concern with the proposed requirements that the office issuing the report must obtain certain audit documentation prepared by other auditors. This commenter maintained that certain documentation requirements could present conflicts with privacy laws in certain foreign jurisdictions. This commenter also expressed concern with the potential interpretation regarding the presentation of oral evidence and recommended that oral evidence be sufficient to explain both other written evidence and, where appropriate, matters for which there is no written evidence.

The PCAOB gave careful consideration to the issues raised by commenters in the course of revising the Proposed Standard prior to its adoption by the Board. In particular, the PCAOB considered concerns regarding the proposed effective date. The PCAOB concluded that the implementation date of the Proposed Standard should not be delayed beyond the year 2004 and should coincide with the documentation requirements set forth in PCAOB Auditing Standard No. 2, *An Audit of Internal Control Over Financial Reporting Performed in Conjunction With an Audit of Financial Statements.*

IV. Conclusion

On the basis of the foregoing, the Commission finds that proposed Auditing Standard No. 3 and the proposed amendment to AU sec. 543 are consistent with the requirements of the Act and the securities laws and are necessary and appropriate in the public interest and for the protection of investors.

It is therefore ordered, pursuant to Section 107 of the Act and Section 19(b)(2) of the Exchange Act, that proposed Auditing Standard No. 3, *Audit Documentation*, and proposed Amendment to Interim Auditing Standards—AU sec. 543, *Part of Audit Performed by Other Independent Auditors*, (File No. PCAOB–2004–05) be and are hereby approved.

By the Commission.

Jill M. Peterson,

Assistant Secretary.

[FR Doc. E4–1970 Filed 8–27–04; 8:45 am]

BILLING CODE 8010–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 35-27885]

Filings Under the Public Utility Holding Company Act of 1935, as Amended ("Act")

August 24, 2004.

Notice is hereby given that the following filing(s) has/have been made with the Commission pursuant to provisions of the Act and rules promulgated under the Act. All interested persons are referred to the application(s) and/or declaration(s) for complete statements of the proposed transaction(s) summarized below. The application(s) and/or declaration(s) and any amendment(s) is/are available for public inspection through the Commission's Branch of Public Reference.

Interested persons wishing to comment or request a hearing on the application(s) and/or declaration(s) should submit their views in writing by September 20, 2004, to the Secretary, Securities and Exchange Commission, Washington, DC 20549–0609, and serve a copy on the relevant applicant(s) and/or declarant(s) at the address(es) specified below. Proof of service (by affidavit or, in the case of an attorney at

law, by certificate) should be filed with the request. Any request for hearing should identify specifically the issues of facts or law that are disputed. A person who so requests will be notified of any hearing, if ordered, and will receive a copy of any notice or order issued in the matter. After September 20, 2004, the application(s) and/or declaration(s), as filed or as amended, may be granted and/or permitted to become effective.

Northeast Utilities (70–10234)

Northeast Utilities ("NU"), a Massachusetts business trust and registered holding company, 107 Selden Street, Berlin, Connecticut 06037–5457, has filed with this Commission a declaration under section 12(b) of the Act and rules 45 and 54.

NU's wholly-owned public utility subsidiaries are The Connecticut Light and Power Company, Public Service Company of New Hampshire, and Western Massachusetts Electric Company. Together, these companies furnish retail and wholesale electric service in Connecticut, New Hampshire, western Massachusetts and throughout the Northeast United States. NU is also the parent of a number of other companies, among them the Northeast Utilities Service Company, a service company subsidiary of NU ("NUSCO") and The Rocky River Realty Company, a non-utility subsidiary of NU ("RRR").

NUSCO, a Connecticut corporation, provides centralized support services to NU system companies, including accounting, administrative, information technology, engineering, financial, legal, operational, planning and purchasing services. RRR, a Connecticut corporation, engages in real estate transactions on behalf of NU system companies, including entering into leases for office space utilized by various system companies.

As part of normal business activities, from time to time, NUSCO and RRR may ask NU to provide financial or performance assurances of the obligations of NUSCO and of RRR to third parties. These agreements include contract guarantees, surety bonds and rating-contingent collateralization provisions. In addition, RRR may ask NU to provide payment and performance guarantees in connection with the real-estate contracting activities of RRR, including construction, acquisition and leasing of properties and facilities utilized by certain NU system companies.

NU requests authority, for the period ending June 30, 2007 ("Authorization Period"), to guarantee, indemnify and otherwise provide credit support (each, a "Guarantee") to NUSCO and to RRR, as may be appropriate or necessary in the ordinary course of the NUSCO and the RRR businesses, in an aggregate amount not exceed $100 million outstanding at any one time.

The Guarantees may take the form of NU agreeing to guarantee, undertake reimbursement obligations or assume liabilities or other obligations with respect to or act as surety on, real estate and equipment leases, letters of credit, evidences of indebtedness, equity commitments and performance and other obligations undertaken by NUSCO or by RRR.

NU specifically states that the authority requested is separate from the guaranty authority granted by the Commission in its order dated June 30, 2004 (Holding Co. Act Release No. 27868), supplemented July 2, 2004 (Holding Co. Act Release No. 27868A) (together, the "NUEI Order"). The NUEI Order authorized, among other things, NU and NU Enterprises, a wholly owned non-utility subsidiary of NU, to guarantee, indemnify and otherwise provide credit support of up to $750 million of the debt or obligations of NU's non-utility subsidiaries or affiliates (not including NUSCO or RRR) through June 30, 2007.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. E4–1960 Filed 8–27–04; 8:45 am]

BILLING CODE 8010–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–50230; File No. SR–PCX–2004–67]

Self-Regulatory Organizations; Pacific Exchange, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change and Amendments Nos. 1 and 2 Thereto Amending PCXE Rule 7.55 Relating to the Processing of Incoming ITS Commitments

August 23, 2004.

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 14, 2004, the Pacific Exchange, Inc. ("PCX" or "Exchange"), through its wholly owned subsidiary PCX Equities, Inc. ("PCXE"), filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Exchange. The Exchange has filed the proposed rule change pursuant to Section 19(b)(3)(A)(i) of the Act,[3] and Rule 19b–4(f)(1) thereunder,[4] which renders the proposal effective upon filing with the Commission. On August 12, 2004, the PCX filed Amendment No. 1 to the proposed rule change.[5] On August 13, 2004, the PCX filed Amendment No. 2 to the proposed rule change.[6] The Commission is publishing this notice, as amended, to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange is proposing to amend PCXE Rule 7.55 ("Definitions"), which governs the Archipelago Exchange ("ArcaEx"), an equities trading facility of PCXE, to clarify current ArcaEx practices with respect to the processing of incoming commitments over the Intermarket Trading system ("ITS"). The text of the proposed rule change appears below. New text is in italics.

* * * * *

Rule 7

Equities Trading

Section 5—Intermarket Trading System Plan

Rule 7.55(a)—No change.

(b) Provisions of the Plan. The Corporation has agreed to comply to the best of its ability, and absent reasonable justification or excuse, to enforce compliance by its ETP Holders with the provision of the Plan. In this connection, the following shall apply:

(1)–(3)—No change.

(4) The ETP Holder who made the bid or offer which is sought by a commitment to trade received through ITS shall accept such commitment to trade, via the facilities of the Corporation, up to the amount of the bid or offer if the bid or offer is still available when the commitment to trade is received by such ETP Holder, via the facilities of the Corporation, unless acceptance is precluded by the Rules of the Corporation. In the event that the bid or offer which is sought by a commitment to trade is no longer available through the facilities of the Corporation when the commitment is received, but a new bid or offer is available through the facilities

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 15 U.S.C. 78s(b)(3)(A)(i).

[4] 17 CFR 204.19b–4(f)(1).

[5] *See* letter from Mai S. Shiver, Director, Regulatory Policy, PCX, to Nancy J. Sanow, Assistant Director, Division of Market Regulation ("Division"), Commission, dated August 11, 2004. Amendment No. 1 replaced the proposed rule change in its entirety.

[6] *See* letter from Mai S. Shiver, Director, Regulatory Policy, PCX, to Nancy J. Sanow, Assistant Director, Division, Commission, dated August 12, 2004. Amendment No. 2 corrects the pagination and attaches Exhibit A, which was inadvertently omitted from the proposed rule change.

of the Corporation which would enable the commitment to trade to be executed at a price which is more favorable than the price specified in such commitment, then the ETP Holder who made the bid or offer shall accept, via the facilities of the Corporation, such commitment at the price, and up to the amount of, the new bid or offer, unless acceptance is precluded by the Rules of the Corporation. *An incoming commitment received during the time a trade-through complaint against the away market is outstanding is presumed to relate to the outstanding ITS complaint. Such incoming commitment will be matched with the bid or offer traded through at the price of the bid or offer residing in the ArcaEx book. The presumption in this rule shall have no bearing on the resolution of the ITS complaint.*

* * * * *

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 add language to PCXE Rule 7.55 to clarify current ArcaEx practices with respect to the processing of incoming ITS commitments sent by an away market during the time a trade-through complaint against the away market is outstanding. The ITS Operating Committee recently proposed to adopt an ITS Resolution Indicator, or ".R" modifier, that ITS participants would be required to include on all commitments to trade sent in resolution of an ITS administrative message or complaint from another participant. Currently, there is no such modifier available. The PCX states that the proposed .R modifier has been under discussion amongst members of the ITS Operating Committee for some time and the Exchange is hopeful that it will be approved. Until such time, the Exchange believes that the clarification in this proposed rule change should provide greater certainty with respect to ITS processing and ultimately lead to a more efficient marketplace.

PXCE Rule 7.55 governs how incoming commitments via ITS are handled by ArcaEx. The PCX states that on the current ArcaEx listed platform, incoming ITS commitments from an away market are executed at the ArcaEx best bid or offer ("BBO") unless an ArcaEx order has been traded-through by the away market. According to the PCX, if an ArcaEx order is traded-through and a complaint is generated by the Exchange, an incoming ITS commitment received by ArcaEx is matched, where appropriate, with the offended ArcaEx order at the order price (and not the BBO should the order price be different from the BBO). The Exchange believes that the proposed rule change is designed to more clearly describe the ArcaEx processing "presumption" that all incoming ITS commitments received from an away market during the time a trade-through complaint against the away market is outstanding relate to the outstanding trade-through complaint. The proposed amendment to the rule also specifies that this presumption shall have no bearing on the resolution of the ITS trade-through complaint.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b)[7] of the Act, in general, and further the objectives of Section 6(b)(5)[8] in particular, because it is designed to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in facilitating transactions in securities, and to remove impediments to and perfect the mechanisms of a free and open market, and 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

Written comments were neither solicited nor received with respect to the proposed rule change.

[7] 15 U.S.C. 78f(b).

[8] 15 U.S.C. 78f(b)(50.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A)(i) of the Act,[9] and Rule 19b–4(f)(1) thereunder,[10] because it constitutes a stated policy, practice, or interpretation with respect to the meaning, administration, or enforcement of an existing PCX rule. At any time within 60 days of the filing of the proposed rule change, the Commission may summarily abrogate the proposed rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.[11]

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 comments from (*http:www.sec.gov/rules/sro.shtml*);
- Send an e-mail to *rule-comments@sec.gov*. Please include File Number SR–PCX–2004–67 on the subject line.

Paper Comments

- Send paper comments in triplicate to Jonathan G. Katz, Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549–0609.

All submissions should refer to File Number SR–PCX–2004–67. 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

[9] 15 U.S.C. 78s(b)(3)(A)(i).

[10] 17 CFR 240.19b–4(f)(1).

[11] For purposes of calculating the 60-day period within which the Commission may summarily abrogate the proposed rule change under Section 19(b)(3)(C) of the Act, the Commission considers that period to commence on August 13, 2004, the date the PCX submitted Amendment No. 2. *See* 15 U.S.C. 78s(b)(3)(C).

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 Room. Copies of the filing also will be available for inspection and copying at the principal office of the PCX. All comments received will be posted without change; the Commission does not edit personal identifying information form submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–PCX–2004–67 and should be submitted on or before September 20, 2004.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[12]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 04–19662 Filed 8–27–04; 8:45 am]

BILLING CODE 8010–01–M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-50229; File No. SR–Phlx–2004–42]

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by the Philadelphia Stock Exchange, Inc. Relating to Its Specialist Unit Fixed Monthly Fee

August 23, 2004.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")[1], and Rule 19b–4 thereunder,[2] notice is hereby given that on June 30, 2004, the Philadelphia Stock Exchange, Inc. ("Phlx" or "Exchange") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I, II, and III, below, which Items have been prepared by Phlx. 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

Phlx proposes to amend its Specialist Unit Fixed Monthly Fee ("fixed monthly fee") to address situations where an equity option or index option is relinquished by a specialist unit and subsequently reallocated to a new specialist unit.

A. Background[3]

The fixed monthly fee affords specialist units[4] the opportunity to elect to pay a fixed monthly fee in lieu of paying fees currently in effect for equity option and index option transaction charges and for the equity option specialist deficit (shortfall) fee (collectively "variable fees").[5] The Exchange rules provide two methods for calculating the fixed monthly fee.[6] Pursuant to the first methodology implemented in 2003, specialist units that traded an equity option or index option on the Phlx trading floor in their capacity as a specialist unit with Phlx equity option or index option transactions in at least one equity option or index option for at least one year from September 1, 2002, and that elected to pay a fixed monthly fee, use May and June 2003 volume as the basis to calculate the fixed monthly fee. In 2004, the Exchange extended the application of the fixed monthly fee calculation from February 29, 2004 to August 31, 2004.[7]

Subsequently, in 2004, the Exchange implemented a fixed monthly fee for those specialist units who were not enrolled in the specialist unit fixed monthly fee program implemented in 2003.[8] Pursuant to the second methodology, specialist units that elect the fixed monthly fee who have been trading an equity option or index option on the Phlx trading floor in their capacity as a specialist unit with Phlx equity option or index option transactions in at least one equity option or index option for at least nine months as of March 1, 2004, use October, November and December 2003 volume as the basis for calculating their fixed monthly fee. This fixed monthly fee is also in effect through August 31, 2004. Thus, there are two different time periods under which the fixed monthly fee may be calculated.[9]

The fixed monthly fee for both methods of calculation is currently capped at $310,000 per specialist unit per month for transactions settling on May 1, 2004 through August 31, 2004.[10]

B. Proposed Modifications to the Fixed Monthly Fee

Periodically, an options specialist unit will relinquish an option for various business reasons, and in many cases the relinquished option is reallocated to another options specialist unit.[11] For example, Options Specialist A, who is operating under the fixed monthly fee program, relinquishes an option that is subsequently allocated to Options Specialist B, also subject to the fixed monthly fee. Using the current fixed monthly fee methodology, Options Specialist A cannot reduce its fixed monthly fee by the amount of the relinquished option. In addition, using the current fixed monthly fee methodology, Options Specialist B will have its fee increased according to the applicable fixed monthly fee calculation under which it is operating, as opposed to applying the fixed monthly fee calculation under which Options Specialist A is operating.

To address this limited situation, the fixed monthly fee for an options specialist unit that has elected the fixed monthly fee and has relinquished an equity option or index option, will be reduced, pro-rata for the month, by the amount equal to the amount used to determine the fixed monthly fee with respect to the relinquished option (*e.g.*, a specialist that relinquishes Option A, which was factored into the fixed monthly fee using the May and June 2003 volume, will have its fixed monthly fee reduced using the same algorithm), provided the option is subsequently allocated within 30 days[12] to another specialist unit who has

[12] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] Clarifying changes in this section were made pursuant to telephone conversations on July 29, 2004, between Cynthia K. Hoekstra, Counsel, Phlx, and Steve Kuan, Attorney, Division of Market Regulation, Commission.

[4] The Exchange uses the terms "specialist" and "specialist unit" interchangeably herein.

[5] The fixed monthly fee does not affect additional charges, such as non-transactional and membership-related charges listed on Appendix A of the Exchange's fee schedule. In addition, a $0.10 charge per contract side for specialist unit transactions in the QQQ equity options ("QQQ license fee") is imposed, if applicable, if the specialist unit elects to pay the fixed monthly fee. This fee is in addition to the fixed monthly fee. The QQQ license fee is in effect through August 31, 2004.

[6] *See* Securities Exchange Act Release Nos. 48459 (September 8, 2003), 68 FR 54034 (September 15, 2003) (SR–Phlx–2003–61); 49467 (March 24, 2004), 69 FR 17017 (March 31, 2004) (SR–Phlx–2004–17); and 49770 (May 25, 2004), 69 FR 31150 (June 2, 2004) (SR–Phlx–2004–31).

[7] *See* Securities Exchange Act Release No. 49467 (March 24, 2004), 69 FR 17017 (March 31, 2004) (SR–Phlx–2004–17).

[8] *See id.*

[9] A specialist that elected the first methodology may not elect the second methodology. A specialist that did not elect the first methodology may only elect the second methodology.

[10] *See* Securities Exchange Act Release No. 49693 (May 12, 2004), 69 FR 28974 (May 19, 2004) (SR–Phlx–2004–30).

[11] Phlx represents that the procedure to reallocate a relinquished option is set forth in Phlx Rule 505 and Phlx Rule 506. Telephone conversation among Cynthia K. Hoekstra, Counsel, Phlx, and Marc McKayle and Steve Kuan, Division of Market Regulation, Commission (July 22, 2004).

[12] Phlx believes that the 30-day period is a reasonable time period. *See id.*

elected the fixed fee. If the specialist who has been reallocated the option elects to pay the fixed monthly fee, the new specialist will pay a pro-rata amount of the original fixed monthly fee calculation for the month in which the reallocation occurred.[13]

The Exchange represents that when the same option is reallocated to another specialist that has elected the fixed monthly fee, that specialist's fixed monthly fee will then increase using the same methodology and time period as the original specialist unit for that option, which should, in turn, result in a revenue neutral outcome to the Exchange.

The changes to the fixed monthly fee as set forth in this proposal are scheduled to be in effect for transactions settling on or after July 1, 2004 through August 31, 2004.

A copy of the Specialist Unit Fixed Monthly Fee Schedule of the Exchange's fee schedule is available at Phlx and at the Commission.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, Phlx 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. Phlx has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The purpose of the proposed rule change is to more equitably assess fixed monthly fees in situations where a specialist unit relinquishes an option. By allowing the specialist unit to decrease its fixed monthly fee by the amount of the option that was relinquished, provided another specialist unit is allocated the option within 30 days and elects to pay a fixed monthly fee, the fixed monthly fee for the affected specialist units should more equitably reflect the appropriate amount of the fixed monthly fee. In addition, the Exchange represents that this proposal should maintain the same revenue stream to the Exchange.

2. Statutory Basis

The Exchange believes that its proposal to amend its schedule of dues, fees and charges is consistent with Section 6(b) of the Act[14] in general, and furthers the objectives of Section 6(b)(4) of the Act[15] in particular, in that it is an equitable allocation of reasonable dues, fees, and other charges among Exchange members.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any inappropriate burden on competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were either solicited or received.

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)(ii) of the Act[16] and subparagraph (f)(2) of Rule 19b–4[17] thereunder, because the proposed rule change establishes or changes a due, fee, or other charge imposed by the Exchange.

At any time within 60 days of the filing of such proposed rule change, the Commission may summarily abrogate such proposed rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an e-mail to *rule-comments@sec.gov*. Please include File Number SR–Phlx–2004–42 on the subject line.

Paper Comments

- Send paper comments in triplicate to Jonathan G. Katz, Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549–0609. All submissions should refer to File Number SR–Phlx–2004–42. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street, NW., Washington, DC 20549. Copies of such filing also will be available for inspection and copying at the principal office of Phlx. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–Phlx–2004–42 and should be submitted on or before September 20, 2004.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[18]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. E4–1961 Filed 8–27–04; 8:45 am]

BILLING CODE 8010–01–P

[13] If a specialist unit relinquishes an option and no other specialist unit has been allocated the option within 30 days, the specialist unit relinquishing the option may not reduce the amount of its fixed monthly fee.

[14] 15 U.S.C. 78f(b).

[15] 15 U.S.C. 78f(b)(4).

[16] 15 U.S.C. 78s(b)(3)(A)(ii).

[17] 17 CFR 240.19b–4(f)(2).

[18] 17 CFR 200.30–3(a)(12).

SMALL BUSINESS ADMINISTRATION

[Declaration of Disaster #3615]

State of Florida (Amendment #1)

In accordance with a notice received from the Department of Homeland Security—Federal Emergency Management Agency—effective August 24, 2004, the above numbered declaration is hereby amended to include Flagler County as a disaster area

due to damages caused by Tropical Storm Bonnie and Hurricane Charley occurring on August 11, 2004, and continuing. All counties contiguous to the above named primary county have previously been declared. All other information remains the same, *i.e.*, the deadline for filing applications for physical damage is October 12, 2004 and for economic injury the deadline is May 13, 2005.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008).

Dated: August 24, 2004.

Herbert L. Mitchell,

Associate Administrator for Disaster Assistance.

[FR Doc. 04–19756 Filed 8–27–04; 8:45 am]

BILLING CODE 8025–01–P

SMALL BUSINESS ADMINISTRATION

Declaration of Disaster #P047; State of Kansas; Amendment #2

In accordance with a notice received from the Department of Homeland Security—Federal Emergency Management Agency, effective July 25, 2004, the above numbered declaration is hereby amended to establish the incident period for this disaster as beginning on June 12, 2004, and continuing through July 25, 2004.

All other information remains the same, *i.e.*, the deadline for filing applications for physical damage is October 4, 2004.

(Catalog of Federal Domestic Assistance Program Nos. 59008)

Dated: August 20, 2004.

Cheri L. Cannon,

Acting Associate Administrator for Disaster Assistance.

[FR Doc. 04–19758 Filed 8–27–04; 8:45 am]

BILLING CODE 8025–01–P

SMALL BUSINESS ADMINISTRATION

[Declaration of Disaster #3608]

State of West Virginia (Amendment #1)

In accordance with a notice received from the Department of Homeland Security—Federal Emergency Management Agency—effective August 19, 2004, the above numbered declaration is hereby amended to include Mingo County as a disaster area due to damages caused by severe storms, flooding, and landslides occurring on July 22, 2004, and continuing.

In addition, applications for economic injury loans from small businesses located in the contiguous county of McDowell in the State of West Virginia; Martin and Pike Counties in the Commonwealth of Kentucky; and Buchanan County in the Commonwealth of Virginia may be filed until the specified date at the previously designated location. All other counties contiguous to the above named primary counties have previously been declared.

The numbers assigned to this disaster for economic injury are 9ZP9 for Kentucky and 9ZQ1 for Virginia.

All other information remains the same, *i.e.*, the deadline for filing applications for physical damage is October 5, 2004 and for economic injury the deadline is May 6, 2005.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008).

Dated: August 20, 2004.

Cheri L. Cannon,

Acting Associate Administrator for Disaster Assistance.

[FR Doc. 04–19757 Filed 8–27–04; 8:45 am]

BILLING CODE 8025–01–P

SMALL BUSINESS ADMINISTRATION

Public Federal Regulatory Enforcement Fairness Hearing; Region VI Regulatory Fairness Board

The Small Business Administration Region VI Regulatory Fairness Board and the SBA Office of the National Ombudsman will hold a Public Hearing on Friday, October 1, 2004 at 8:30 a.m. at the Greater Albuquerque Chamber of Commerce, Willard Board Room, 115 Gold Avenue, SW., Albuquerque, New Mexico 87102, to receive comments and testimony from small business owners, small government entities, and small non-profit organizations concerning regulatory enforcement and compliance actions taken by federal agencies.

Anyone wishing to attend or to make a presentation must contact Anthony J. McMahon or Susan Chavez in writing or by fax, in order to be put on the agenda. Anthony J. McMahon, District Director, SBA New Mexico District Office, 625 Silver Avenue, SW., Suite 320, Albuquerque, NM 87102, phone (505) 346–6767, fax (202) 481–0301, e-mail: *Anthony.McMahon@sba.gov*. Susan Chavez, Assistant District Director for Entrepreneurial Development, SBA New Mexico District Office, phone (505) 346–6759, fax (202) 481–5723, e-mail: *Susan.Chavez@sba.gov*.

For more information, see our Web site at *http://www.sba.gov/ombudsman*.

Dated: August 24, 2004.

Peter Sorum,

Senior Advisor, Office of the National Ombudsman.

[FR Doc. 04–19759 Filed 8–27–04; 8:45 am]

BILLING CODE 8025–01–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Public Notice for a Change in Use of Aeronautical Property at Concord Municipal Airport, Concord, NH

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Request for public comments.

SUMMARY: The FAA is requesting public comment on the City of Concord, New Hampshire's request to change a portion (29.22 acres) of Airport property from aeronautical use to non-aeronautical use. The property is located off Chennell Drive in the approach to Runway 30 in Concord, New Hampshire and is currently undeveloped. The terrain and location of the parcel does not allow the property to be used for aviation development. Upon disposition the property will be used as a multi-use business park. There were no Federal funds used in the acquisition of this property. A navigation easement will be retained by the City.

The disposition of proceeds from the disposal of airport property will be in accordance with FAA's Policy and Procedures Concerning the Use of Airport Revenue, published in the **Federal Register** on February 16, 1999.

DATES: Comments must be received on or before September 29, 2004.

ADDRESSES: Documents are available for review by appointment by contacting Mr. Kenneth Lurvey, Business Development Coordinator, City Hall, 41 Green Street, Concord, NH 03301, Telephone (603) 225–8595 and by contacting Donna R. Witte, Federal Aviation Administration, 16 New England Executive Park, Burlington, Massachusetts, Telephone (781) 238–7624.

FOR FURTHER INFORMATION CONTACT: Donna R. Witte at the Federal Aviation Administration, 12 New England Executive Park, Burlington, Massachusetts 01803, Telephone (781) 238–7624.

SUPPLEMENTARY INFORMATION: Section 125 of The Wendell H. Ford Aviation Investment and Reform Act for the 21st Century (AIR 21) requires the FAA to provide an opportunity for public notice and comment to the "waiver" or

"modification" of a sponsor's Federal obligation to use certain airport property for aeronautical purposes.

Issued in Burlington, Massachusetts on August 18, 2004.

Vincent A. Scarano,

Manager, Airports Division, New England Region.

[FR Doc. 04–19737 Filed 8–27–04; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[Summary Notice No. PE–2004–70]

Petitions for Exemption; Summary of Petitions Received

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of petition for exemption received.

SUMMARY: Pursuant to FAA's rulemaking provisions governing the application, processing, and disposition of petitions for exemption, part 11 of Title 14, Code of Federal Regulations (14 CFR), this notice contains a summary of certain petitions seeking relief from specified requirements of 14 CFR. The purpose of this notice is to improve the public's awareness of, and participation in, this aspect of FAA's regulatory activities. Neither publication of this notice nor the inclusion or omission of information in the summary is intended to affect the legal status of any petition or its final disposition.

DATES: Comments on petitions received must identify the petition docket number involved and must be received on or before September 20, 2004.

ADDRESSES: You may submit comments identified by DOT DMS Docket Number FAA–200X–XXXXX by any of the following methods:

- Web site: *http://dms.dot.gov.* Follow the instructions for submitting comments on the DOT electronic docket site.
- Fax: 1–202–493–2251.
- Mail: Docket Management Facility; U.S. Department of Transportation, 400 Seventh Street, SW., Nassif Building, Room PL–401, Washington, DC 20590–0001.
- Hand Delivery: Room PL–401 on the plaza level of the Nassif Building, 400 Seventh Street, SW., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.
- Federal eRulemaking Portal: Go to *http://www.regulations.gov.* Follow the online instructions for submitting comments.

Docket: For access to the docket to read background documents or comments received, go to *http://dms.dot.gov* at any time or to Room PL–401 on the plaza level of the Nassif Building, 400 Seventh Street, SW., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: John Linsenmeyer (202) 267–5174 or Susan Lender (202) 267–8029, Office of Rulemaking (ARM–1), Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591.

This notice is published pursuant to 14 CFR 11.85 and 11.91.

Issued in Washington, DC, on August 24, 2004.

Anthony F. Fazio,

Director, Office of Rulemaking.

Petitions for Exemption

Docket No.: FAA–2003–16332.

Petitioner: Raytheon Aircraft Company.

Sections of 14 CFR Affected: 14 CFR 21.231(a)(1).

Description of Relief Sought: To allow Raytheon Aircraft Company to extend its delegation option authorization (DOA) to include certification of transport category aircraft.

[FR Doc. 04–19734 Filed 8–27–04; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Research, Engineering and Development Advisory Committee

Pursuant to section 10(A)(2) of the Federal Advisory Committee Act (Pub. L. 92–463; 5 U.S.C. App. 2), notice is hereby given of a meeting of the FAA Research, Engineering and Development (R,E&D) Advisory Committee.

AGENCY: Federal Aviation Administration.

ACTION: Notice of meeting.

Name: Research, Engineering & Development Advisory Committee.

Time and Date: September 14, 2004—9 a.m. to 4 p.m. September 15, 2004—9 a.m. to 12 noon.

Place: Federal Aviation Administration, 800 Independence Avenue, SW.—Bessie Coleman Room, Washington, DC 20591.

Purpose: On September 14–15 the meeting agenda will include receiving from the Committee guidance for FAA's research and development investments in the areas of air traffic services, airports, aircraft safety, human factors and environment and energy. Attendance is open to the interested public but seating is limited. Persons wishing to attend the meeting or obtain information should contact Gloria Dunderman at the Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591 (202) 267–8937 or *gloria.dunderman@faa.gov.*

Members of the public may present a written statement to the Committee at any time.

Issued in Washington, DC on August 24, 2004.

Joan Bauerlein,

Director of Operations Planning Research & Development.

[FR Doc. 04–19738 Filed 8–27–04; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

Petition for Waiver of Compliance

In accordance with Part 211 of Title 49 Code of Federal Regulations (CFR), notice is hereby given that the Federal Railroad Administration (FRA) received a request for a waiver of compliance with certain requirements of its safety standards. The individual petition is described below, including the party seeking relief, the regulatory provisions involved, the nature of the relief being requested, and the petitioner's arguments in favor of relief.

Western Railroad Supply (Waiver Petition Docket Number FRA–2004–17988)

Western Railroad Supply seeks a waiver of compliance from certain provisions of the Safety Glazing Standards, 49 CFR Part 223, which requires certified glazing in all windows. The company performs railcar switching at Dow Chemical located at 901 Loveridge Road, Pittsburg, California. During switching activity, crews leave the plant track to access a storage yard located on BNSF track. Track distance within the yard is approximately 10 miles. Distance of the BNSF track is less than 1 mile. Crews operate between the hours of 4 pm to 4 am, Monday through Friday within a fenced area, maintaining 24 hour security.

This request is for one locomotive, specifically locomotive number IRLX 1001. At the present time, the engine is a backup unit and is equipped with Auto Safety Glazed glass in all windows. The company claims that in their four years of operations, there has

never been an instance of vandalism to the equipment or at this location.

Interested parties are invited to participate in these proceedings by submitting written views, data, or comments. FRA does not anticipate scheduling a public hearing in connection with these proceedings since the facts do not appear to warrant a hearing. If any interested party desires an opportunity for oral comment, they should notify FRA, in writing, before the end of the comment period and specify the basis for their request.

All communications concerning these proceedings should identify the appropriate docket number (e.g., Waiver Petition Docket Number 2004–17988) and must be submitted to the Docket Clerk, DOT Docket Management Facility, Room PL–401 (Plaza Level), 400 7th Street, SW., Washington, DC 20590. Communications received within 45 days of the date of this notice will be considered by FRA before final action is taken. Comments received after that date will be considered as far as practicable. All written communications concerning these proceedings are available for examination during regular business hours (9 a.m.–5 p.m.) at the above facility. All documents in the public docket are also available for inspection and copying on the Internet at the docket facility's Web site at *http://dms.dot.gov*.

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

Issued in Washington, DC, on August 23, 2004.

Grady C. Cothen, Jr.

Acting Associate Administrator for Safety.

[FR Doc. 04–19741 Filed 8–27–04; 8:45 am]

BILLING CODE 4910–06–P

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

[Docket No. FRA–2000–7257; Notice No. 34]

Railroad Safety Advisory Committee; Notice of Meeting

AGENCY: Federal Railroad Administration (FRA), Department of Transportation (DOT).

ACTION: Notice of the Railroad Safety Advisory Committee (RSAC) meeting.

SUMMARY: FRA announces the next meeting of the RSAC, a Federal Advisory Committee that develops railroad safety regulations through a consensus process. The RSAC meeting topics will include cross border issues with Mexico and Canada, general discussion of roadway worker protection, ninety-two day locomotive inspections, cell phone use on trains, update on the Collision Analysis Working Group, railroad security, and recent safety advisories. Status reports will be given on the Passenger Safety Working Group and other active working groups.

DATES: The meeting of the RSAC is scheduled to commence at 9:30 a.m., and conclude at 4 p.m., on Wednesday, September 22, 2004.

ADDRESSES: The meeting of the RSAC will be held at the Washington Plaza, 10 Thomas Circle, NW., Washington, DC 20005, (202) 842–1300. The meeting is open to the public on a first-come, first-serve basis and is accessible to individuals with disabilities. Sign and oral interpretation can be made available if requested 10 calendar days before the meeting.

FOR FURTHER INFORMATION CONTACT: Trish Butera, RSAC Coordinator, FRA, 1120 Vermont Avenue, NW., Stop 25, Washington, DC 20590, (202) 493–6212 or Grady Cothen, Deputy Associate Administrator for Safety Standards and Program Development, FRA, 1120 Vermont Avenue, NW., Mailstop 25, Washington, DC 20590, (202) 493–6302.

SUPPLEMENTARY INFORMATION: Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), FRA is giving notice of a meeting of the RSAC. The meeting is scheduled to begin at 9:30 a.m., and conclude at 4 p.m., on Wednesday, September 22, 2004. The meeting of the RSAC will be held at the Washington Plaza, 10 Thomas Circle, NW., Washington, DC, 20005, (202) 842–1300. All times noted are Daylight Savings Time.

RSAC was established to provide advice and recommendations to the FRA on railroad safety matters. The Committee consists of 48 individual voting representatives and five associate representatives drawn from among 30 organizations representing various rail industry perspectives, two associate representatives from the agencies with railroad safety regulatory responsibility in Canada and Mexico and other diverse groups. Staffs of the National Transportation Safety Board and Federal Transit Administration also participate in an advisory capacity.

See the RSAC Web site for details on pending tasks at: *http://rsac.fra.dot.gov/*. Please refer to the notice published in the **Federal Register** on March 11, 1996, (61 FR 9740) for more information about the RSAC.

Issued in Washington, DC, on August 24, 2004.

Grady C. Cothen, Jr.,

Acting Associate Administrator for Safety.

[FR Doc. 04–19740 Filed 8–27–04; 8:45 am]

BILLING CODE 4910–06–P

DEPARTMENT OF TRANSPORTATION

Maritime Administration

[Docket No.: MARAD–2004–18955]

Requested Administrative Waiver of the Coastwise Trade Laws

AGENCY: Maritime Administration, Department of Transportation.

ACTION: Invitation for public comments on a requested administrative waiver of the Coastwise Trade Laws for the vessel CARMINA MARE.

SUMMARY: As authorized by Pub. L. 105–383 and Pub. L. 107–295, the Secretary of Transportation, as represented by the Maritime Administration (MARAD), is authorized to grant waivers of the U.S.-build requirement of the coastwise laws under certain circumstances. A request for such a waiver has been received by MARAD. The vessel, and a brief description of the proposed service, is listed below. The complete application is given in DOT docket 2004–18955 at *http://dms.dot.gov*. Interested parties may comment on the effect this action may have on U.S. vessel builders or businesses in the U.S. that use U.S.-flag vessels. If MARAD determines, in accordance with Pub. L. 105–383 and MARAD's regulations at 46 CFR part 388 (68 FR 23084; April 30, 2003), that the issuance of the waiver will have an unduly adverse effect on a U.S.-vessel builder or a business that uses U.S.-flag vessels in that business, a waiver will not be granted. Comments should refer to the docket number of this notice and the vessel name in order for MARAD to properly consider the comments. Comments should also state the commenter's interest in the waiver application, and address the waiver criteria given in § 388.4 of MARAD's regulations at 46 CFR part 388.

DATES: Submit comments on or before September 29, 2004.

ADDRESSES: Comments should refer to docket number MARAD–2004–18955.

Written comments may be submitted by hand or by mail to the Docket Clerk, U.S. DOT Dockets, Room PL–401, Department of Transportation, 400 7th St., SW., Washington, DC 20590–0001. You may also send comments electronically via the Internet at *http://dmses.dot.gov/submit/*. All comments will become part of this docket and will be available for inspection and copying at the above address between 10 a.m. and 5 p.m., E.T., Monday through Friday, except federal holidays. An electronic version of this document and all documents entered into this docket is available on the World Wide Web at *http://dms.dot.gov*.

FOR FURTHER INFORMATION CONTACT: Michael Hokana, U.S. Department of Transportation, Maritime Administration, MAR–830 Room 7201, 400 Seventh Street, SW., Washington, DC 20590. Telephone 202–366–0760.

SUPPLEMENTARY INFORMATION: As described by the applicant the intended service of the vessel CARMINA MARE is:

Intended Use: Day sails in Santa Monica Bay, CA for up to 12 passengers. Possible trips to Catalina Island for up to six passengers.

Geographic Region: Santa Monica Bay and the Channel Islands off the coast of California.

Dated: August 24, 2004.

By order of the Maritime Administrator.

Joel C. Richard,

Secretary, Maritime Administration.

[FR Doc. 04–19658 Filed 8–27–04; 8:45 am]

BILLING CODE 4910–81–P

DEPARTMENT OF TRANSPORTATION

Maritime Administration

[Docket No.: MARAD–2004–18956]

Requested Administrative Waiver of the Coastwise Trade Laws

AGENCY: Maritime Administration, Department of Transportation.

ACTION: Invitation for public comments on a requested administrative waiver of the Coastwise Trade Laws for the vessel CYGNUS.

SUMMARY: As authorized by Pub. L. 105–383 and Pub. L. 107–295, the Secretary of Transportation, as represented by the Maritime Administration (MARAD), is authorized to grant waivers of the U.S.-build requirement of the coastwise laws under certain circumstances. A request for such a waiver has been received by MARAD. The vessel, and a brief description of the proposed service, is listed below. The complete application is given in DOT docket 2004–18956 at *http://dms.dot.gov*. Interested parties may comment on the effect this action may have on U.S. vessel builders or businesses in the U.S. that use U.S.-flag vessels. If MARAD determines, in accordance with Pub. L. 105–383 and MARAD's regulations at 46 CFR part 388 (68 FR 23084; April 30, 2003), that the issuance of the waiver will have an unduly adverse effect on a U.S.-vessel builder or a business that uses U.S.-flag vessels in that business, a waiver will not be granted. Comments should refer to the docket number of this notice and the vessel name in order for MARAD to properly consider the comments. Comments should also state the commenter's interest in the waiver application, and address the waiver criteria given in § 388.4 of MARAD's regulations at 46 CFR part 388.

DATES: Submit comments on or before September 29, 2004.

ADDRESSES: Comments should refer to docket number MARAD–2004–18956. Written comments may be submitted by hand or by mail to the Docket Clerk, U.S. DOT Dockets, Room PL–401, Department of Transportation, 400 7th St., SW., Washington, DC 20590–0001. You may also send comments electronically via the Internet at *http://dmses.dot.gov/submit/*. All comments will become part of this docket and will be available for inspection and copying at the above address between 10 a.m. and 5 p.m., E.T., Monday through Friday, except federal holidays. An electronic version of this document and all documents entered into this docket is available on the World Wide Web at *http://dms.dot.gov*.

FOR FURTHER INFORMATION CONTACT: Michael Hokana, U.S. Department of Transportation, Maritime Administration, MAR–830 Room 7201, 400 Seventh Street, SW., Washington, DC 20590. Telephone 202–366–0760.

SUPPLEMENTARY INFORMATION: As described by the applicant the intended service of the vessel CYGNUS is:

Intended Use: Charter, Sail Training, Excursions with Special Needs Children.

Geographic Region: "New England and New York".

By order of the Maritime Administrator.

Dated: August 24, 2004.

Joel C. Richard,

Secretary, Maritime Administration.

[FR Doc. 04–19657 Filed 8–27–04; 8:45 am]

BILLING CODE 4910–81–P

DEPARTMENT OF TRANSPORTATION

Maritime Administration

[Docket Number: MARAD–2004–18957]

Requested Administrative Waiver of the Coastwise Trade Laws

AGENCY: Maritime Administration, Department of Transportation.

ACTION: Invitation for public comments on a requested administrative waiver of the Coastwise Trade Laws for the vessel DIFFERENT DRUMMER.

SUMMARY: As authorized by Pub. L. 105–383 and Pub. L. 107–295, the Secretary of Transportation, as represented by the Maritime Administration (MARAD), is authorized to grant waivers of the U.S.-build requirement of the coastwise laws under certain circumstances. A request for such a waiver has been received by MARAD. The vessel, and a brief description of the proposed service, is listed below. The complete application is given in DOT docket 2004–18957 at *http://dms.dot.gov*. Interested parties may comment on the effect this action may have on U.S. vessel builders or businesses in the U.S. that use U.S.-flag vessels. If MARAD determines, in accordance with Pub. L. 105–383 and MARAD's regulations at 46 CFR Part 388 (68 FR 23084; April 30, 2003), that the issuance of the waiver will have an unduly adverse effect on a U.S.-vessel builder or a business that uses U.S.-flag vessels in that business, a waiver will not be granted. Comments should refer to the docket number of this notice and the vessel name in order for MARAD to properly consider the comments. Comments should also state the commenter's interest in the waiver application, and address the waiver criteria given in § 388.4 of MARAD's regulations at 46 CFR Part 388.

DATES: Submit comments on or before September 29, 2004.

ADDRESSES: Comments should refer to docket number MARAD–2004–18957. Written comments may be submitted by hand or by mail to the Docket Clerk, U.S. DOT Dockets, Room PL–401, Department of Transportation, 400 7th St., SW., Washington, DC 20590–0001. You may also send comments electronically via the Internet at *http://dmses.dot.gov/submit/*. All comments will become part of this docket and will be available for inspection and copying at the above address between 10 a.m. and 5 p.m., e.s.t., Monday through Friday, except federal holidays. An electronic version of this document and all documents entered into this docket is available on the World Wide Web at *http://dms.dot.gov*.

FOR FURTHER INFORMATION CONTACT: Michael Hokana, U.S. Department of Transportation, Maritime Administration, MAR–830 Room 7201, 400 Seventh Street, SW., Washington, DC 20590. Telephone (202) 366–0760.

SUPPLEMENTARY INFORMATION: As described by the applicant the intended service of the vessel DIFFERENT DRUMMER is:

Intended Use: Coastal Cruising.

Geographic Region: southeastern seaboard ME to FL.

By order of the Maritime Administrator.

Dated: August 24, 2004.

Joel C. Richard,

Secretary, Maritime Administration.

[FR Doc. 04–19661 Filed 8–27–04; 8:45 am]

BILLING CODE 4910–81–P

DEPARTMENT OF TRANSPORTATION

Maritime Administration

[Docket No.: MARAD–2004–18954]

Requested Administrative Waiver of the Coastwise Trade Laws

AGENCY: Maritime Administration, Department of Transportation.

ACTION: Invitation for public comments on a requested administrative waiver of the Coastwise Trade Laws for the vessel IRONY.

SUMMARY: As authorized by Pub. L. 105–383 and Pub. L. 107–295, the Secretary of Transportation, as represented by the Maritime Administration (MARAD), is authorized to grant waivers of the U.S.-build requirement of the coastwise laws under certain circumstances. A request for such a waiver has been received by MARAD. The vessel, and a brief description of the proposed service, is listed below. The complete application is given in DOT docket 2004–18954 at *http://dms.dot.gov*. Interested parties may comment on the effect this action may have on U.S. vessel builders or businesses in the U.S. that use U.S.-flag vessels. If MARAD determines, in accordance with Pub. L. 105–383 and MARAD's regulations at 46 CFR part 388 (68 FR 23084; April 30, 2003), that the issuance of the waiver will have an unduly adverse effect on a U.S.-vessel builder or a business that uses U.S.-flag vessels in that business, a waiver will not be granted. Comments should refer to the docket number of this notice and the vessel name in order for MARAD to properly consider the comments. Comments should also state the commenters interest in the waiver application, and address the waiver criteria given in § 388.4 of MARAD's regulations at 46 CFR part 388.

DATES: Submit comments on or before September 29, 2004.

ADDRESSES: Comments should refer to docket number MARAD–2004–18954. Written comments may be submitted by hand or by mail to the Docket Clerk, U.S. DOT Dockets, Room PL–401, Department of Transportation, 400 7th St., SW., Washington, DC 20590–0001. You may also send comments electronically via the Internet at *http://dmses.dot.gov/submit/*. All comments will become part of this docket and will be available for inspection and copying at the above address between 10 a.m. and 5 p.m., ET, Monday through Friday, except federal holidays. An electronic version of this document and all documents entered into this docket is available on the World Wide Web at *http://dms.dot.gov*.

FOR FURTHER INFORMATION CONTACT: Michael Hokana, U.S. Department of Transportation, Maritime Administration, MAR–830 Room 7201, 400 Seventh Street, SW., Washington, DC 20590. Telephone (202) 366–0760.

SUPPLEMENTARY INFORMATION: As described by the applicant the intended service of the vessel IRONY is:

Intended Use: Occasional charter to max 6 passengers.

Geographic Region: East Coast of the United States including the entire state of Florida.

By order of the Maritime Administrator.

Dated: August 24, 2004.

Joel C. Richard,

Secretary, Maritime Administration.

[FR Doc. 04–19659 Filed 8–27–04; 8:45 am]

BILLING CODE 4910–81–P

DEPARTMENT OF TRANSPORTATION

Maritime Administration

[Docket Number: MARAD–2004–18953]

Requested Administrative Waiver of the Coastwise Trade Laws

AGENCY: Maritime Administration, Department of Transportation.

ACTION: Invitation for public comments on a requested administrative waiver of the Coastwise Trade Laws for the vessel *REVELATION*.

SUMMARY: As authorized by Pub. L. 105–383 and Pub. L. 107–295, the Secretary of Transportation, as represented by the Maritime Administration (MARAD), is authorized to grant waivers of the U.S.-build requirement of the coastwise laws under certain circumstances. A request for such a waiver has been received by MARAD. The vessel, and a brief description of the proposed service, is listed below. The complete application is given in DOT docket 2004–18953 at *http://dms.dot.gov*. Interested parties may comment on the effect this action may have on U.S. vessel builders or businesses in the U.S. that use U.S.-flag vessels. If MARAD determines, in accordance with Pub. L. 105–383 and MARAD's regulations at 46 CFR Part 388 (68 FR 23084; April 30, 2003), that the issuance of the waiver will have an unduly adverse effect on a U.S.-vessel builder or a business that uses U.S.-flag vessels in that business, a waiver will not be granted. Comments should refer to the docket number of this notice and the vessel name in order for MARAD to properly consider the comments. Comments should also state the commenter's interest in the waiver application, and address the waiver criteria given in § 388.4 of MARAD's regulations at 46 CFR Part 388.

DATES: Submit comments on or before September 29, 2004.

ADDRESSES: Comments should refer to docket number MARAD–2004–18953. Written comments may be submitted by hand or by mail to the Docket Clerk, U.S. DOT Dockets, Room PL–401, Department of Transportation, 400 7th St., SW., Washington, DC 20590–0001. You may also send comments electronically via the Internet at *http://dmses.dot.gov/submit/*. All comments will become part of this docket and will be available for inspection and copying at the above address between 10 a.m. and 5 p.m., e.s.t., Monday through Friday, except federal holidays. An electronic version of this document and all documents entered into this docket is available on the World Wide Web at *http://dms.dot.gov*.

FOR FURTHER INFORMATION CONTACT: Michael Hokana, U.S. Department of Transportation, Maritime Administration, MAR–830 Room 7201, 400 Seventh Street, SW., Washington, DC 20590. Telephone (202) 366–0760.

SUPPLEMENTARY INFORMATION: As described by the applicant the intended service of the vessel *REVELATION* is: *Intended Use:* "Chartering/Carry passengers for hire." *Geographic Region:* "Maine to Virginia in Summer, Florida in Winter."

By order of the Maritime Administrator.

Dated: August 24, 2004.

Joel C. Richard,

Secretary, Maritime Administration.

[FR Doc. 04–19660 Filed 8–27–04; 8:45 am]

BILLING CODE 4910–81–P

DEPARTMENT OF TRANSPORTATION

Maritime Administration

Voluntary Intermodal Sealift Agreement (VISA)/Joint Planning Advisory Group (JPAG)

AGENCY: Maritime Administration, DOT.

ACTION: Synopsis of August 17, 2004 Meeting with VISA Participants.

The VISA program requires that a notice of the time, place, and nature of each JPAG meeting be published in the **Federal Register**. The program also requires that a list of VISA participants be periodically published in the **Federal Register**. The full text of the VISA program, including these requirements, is published in 68 FR 8800–8808, dated February 25, 2003.

On August 17, 2004, the Maritime Administration (MARAD) and the U.S. Transportation Command co-hosted a meeting of the VISA JPAG at Ft. Eustis, Virginia.

Meeting attendance was by invitation only, due to the nature of the information discussed and the need for a government-issued security clearance. Of the 57 U.S.-flag carrier corporate participants enrolled in the VISA program at the time of the meeting, 16 companies participated in the meeting. In addition, representatives from MARAD, the Department of Defense, and maritime labor attended the meeting.

LtGen Gary Hughey, opened the meeting with a welcome to all attendees. He was followed by BG Mark Scheid, who provided participants with an overview of the meeting. The JPAG meeting included updates on: (1) Threats to surface deployment and distribution operations; (2) operations overview; (3) liner operations and sustainment update; (4) merchant mariner availability; and (5) maritime industry issues.

As of August 17, 2004, the following commercial U.S.-flag vessel operators were enrolled in the VISA program with MARAD: AAA Shipping No. 1 L.L.C.; A Way to Move, Inc.; America Cargo Transport, Inc.; American Automar, Inc.; American International Car Carrier, Inc.; American President Lines, Ltd.; American Roll-On Roll-Off Carrier, LLC; American Ship Management, L.L.C.; Bay Towing Corporation; Beyel Brothers Inc.; Central Gulf Lines, Inc.; Coastal Transportation, Inc.; Columbia Coastal Transport, LLC; CRC Marine Services, Inc.; Crowley Liner Services, Inc.; Crowley Marine Services, Inc.; Delta Towing; E-Ships, Inc.; Farrell Lines Incorporated; First American Bulk Carrier Corp.; First Ocean Bulk Carrier-I, LLC; First Ocean Bulk Carrier-II, LLC; First Ocean Bulk Carrier-III, LLC; Foss Maritime Company; Horizon Lines, LLC; Laborde Marine Lifts, Inc.; Laborde Marine, L.L.C.; Liberty Shipping Group Limited Partnership; Lockwood Brothers, Inc.; Lykes Lines Limited, LLC; Lynden Incorporated; Maersk Line, Limited; Matson Navigation Company, Inc.; Maybank Navigation Company, LLC; McAllister Towing and Transportation Co., Inc.; Moby Marine Corporation; Odyssea Shipping Line LLC; OSG Car Carriers, Inc.; Patriot Shipping, L.L.C.; RR & VO L.L.C.; Resolve Towing & Salvage, Inc.; Samson Tug & Barge Company, Inc.; Sea Star Line, LLC; SeaTac Marine Services, LLC; Sealift Inc.; Signet Maritime Corporation; STEA Corporation; Strong Vessel Operators LLC (SVO); Superior Marine Services, Inc.; TECO Ocean Shipping; Totem Ocean Trailer Express, Inc.; Trailer Bridge, Inc.; TransAtlantic Lines LLC; Troika International, Ltd.; U.S. Ship Management, Inc.; Waterman Steamship Corporation; and Weeks Marine, Inc.

FOR FURTHER INFORMATION CONTACT: Mr. Taylor E. Jones II, Director, Office of Sealift Support, (202) 366–2323.

Dated: August 25, 2004.

By Order of the Maritime Administrator.

Joel C. Richard,

Secretary.

[FR Doc. 04–19721 Filed 8–27–04; 8:45 am]

BILLING CODE 4910–81–P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Docket No. AB–33 (Sub–No. 221X)]

Union Pacific Railroad Company—Abandonment Exemption—in Santa Clara County, CA

On August 10, 2004, Union Pacific Railroad Company (UP) filed with the Surface Transportation Board a petition under 49 U.S.C. 10502 for exemption from the provisions of 49 U.S.C. 10903 to abandon and discontinue service over a portion of the line, known as the San Jose Industrial Lead, extending from milepost 16.3 to milepost 19.6, for a distance of 3.3 miles, in Santa Clara County, CA.[1] The line traverses U.S. Postal Service Zip Codes 95112, 95116, and 95122, and it includes the station of San Jose.

The line does not contain federally granted rights-of-way. Any documentation in UP's possession will be made available promptly to those requesting it.

The interest of railroad employees will be protected by the conditions set forth in *Oregon Short Line R. Co.—Abandonment—Goshen*, 360 I.C.C. 91 (1979).

By issuing this notice, the Board is instituting an exemption proceeding pursuant to 49 U.S.C. 10502(b). A final decision will be issued by November 26, 2004.

Any offer of financial assistance (OFA) under 49 CFR 1152.27(b)(2) will be due no later than 10 days after service of a decision granting the petition for exemption. Each OFA must be accompanied by a $1,100 filing fee. *See* 49 CFR 1002.2(f)(25).

All interested persons should be aware that, following abandonment of rail service and salvage of the line, the line may be suitable for other public use, including interim trail use. Any request for a public use condition under 49 CFR 1152.28 or for trail use/rail banking under 49 CFR 1152.29 will be due no later than September 20, 2004. Each trail use request must be accompanied by a $200 filing fee. *See* 49 CFR 1002.2(f)(27).

All filings in response to this notice must refer to STB Docket No. AB–33 (Sub-No. 221X) and must be sent to: (1) Surface Transportation Board, 1925 K Street, NW., Washington, DC 20423–0001; and (2) Mack H. Shumate, Jr., Senior General Attorney, 101 North Wacker Drive, Room 1920, Chicago, IL 60606. Replies to the petition are due on or before September 20, 2004.

Persons seeking further information concerning abandonment procedures may contact the Board's Office of Public Services at (202) 565–1592 or refer to the full abandonment or discontinuance regulations at 49 CFR part 1152. Questions concerning environmental issues may be directed to the Board's Section of Environmental Analysis (SEA) at (202) 565–1539. [Assistance for the hearing impaired is available through the Federal Information Relay Service (FIRS) at 1–800–877–8339.]

An environmental assessment (EA) (or environmental impact statement (EIS), if necessary) prepared by SEA will be served upon all parties of record and upon any agencies or other persons who commented during its preparation. Other interested persons may contact SEA to obtain a copy of the EA (or EIS). EAs in these abandonment proceedings

[1] The portion of the line from milepost 16.30 to milepost 17.49 is owned by the Santa Clara Valley Transportation Authority. UP is proposing to discontinue its trackage rights and abandon its freight easement over this segment. The portion of the line from milepost 17.49 to milepost 19.60 is owned and operated by UP. UP is proposing to abandon this segment.

normally will be made available within 60 days of the filing of the petition. The deadline for submission of comments on the EA will generally be within 30 days of its service.

Board decisions and notices are available on our Web site at *http://www.stb.dot.gov.*

Decided: August 24, 2004.

By the Board, David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams,

Secretary.

[FR Doc. 04–19695 Filed 8–27–04; 8:45 am]

BILLING CODE 4915–01–P

INSTITUTE OF PEACE

Notice of Meeting; Sunshine Act

AGENCY: Institute of Peace.

DATE AND TIME: Friday, September 17, 2004. 9:15 a.m.–3:30 p.m.

LOCATION: 1200 17th Street, NW., Suite 200, Washington, DC 20036–3011.

STATUS: Open Session—Portions may be closed pursuant to subsection (c) of section 552(b) of title 5, United States Code, as provided in subsection 1706(h)(3) of the United States Institute of Peace Act, Public Law 98–525.

AGENDA: September 2004 Board Meeting; Approval of Minutes of the One Hundred Fifteenth Meeting (June 16–18, 2004) of the Board of Directors; Chairman's Report; President's Report; Committee Reports; Fiscal Years 2005 and 2006 Budget Review; Organizational Review; Approval of 2004 Unsolicited and Solicited Grant; Other General Issues.

CONTACT: Tessie Higgs, Executive Office, Telephone: (202) 429–3836.

Dated: August 18, 2004.

Harriet Hentges,

Executive Vice President, United States Institute of Peace.

[FR Doc. 04–19876 Filed 8–26–04; 3:12 pm]

BILLING CODE 6820–AR–M

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900–0003]

Agency Information Collection Activities Under OMB Review

AGENCY: Veterans Benefits Administration, Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (PRA) of 1995 (44 U.S.C. 3501–3521), this notice announces that the Veterans Benefits Administration (VBA), Department of Veterans Affairs, has submitted the collection of information abstracted below to the Office of Management and Budget (OMB) for review and comment. The PRA submission describes the nature of the information collection and its expected cost and burden; it includes the actual data collection instrument.

DATES: Comments must be submitted on or before September 29, 2004.

FOR FURTHER INFORMATION CONTACT: Denise McLamb, Records Management Service (005E3), Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420, (202) 273–8030, FAX (202) 273–5981 or e-mail *denise.mclamb@mail.va.gov.* Please refer to "OMB Control No. 2900–0003." Send comments and recommendations concerning any aspect of the information collection to VA's OMB Desk Officer, OMB Human Resources and Housing Branch, New Executive Office Building, Room 10235, Washington, DC 20503 (202) 395–7316. Please refer to "OMB Control No. 2900–0003" in any correspondence.

SUPPLEMENTARY INFORMATION:

Title: Application for Burial Benefits (Under 38 U.S.C. Chapter 23), VA Form 21–530.

OMB Control Number: 2900–0003.

Type of Review: Extension of a currently approved collection.

Abstract: VA Form 21–530 is used to apply for burial benefits, including transportation. The information is used to determine if a deceased veteran had appropriate service and/or disability and that the claimant has made payment for burial or has contracted to make appropriate payment.

An agency may not conduct or sponsor, and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number. The **Federal Register** Notice with a 60-day comment period soliciting comments on this collection of information was published on June 15, 2004, at page 33465.

Affected Public: Individuals or households, Businesses or other for profit.

Estimated Annual Burden: 100,000 hours.

Estimated Average Burden Per Respondent: 20 minutes.

Frequency of Response: One time.

Estimated Number of Respondents: 300,000.

Dated: August 17, 2004.

By direction of the Secretary.

Loise Russell,

Director, Records Management Service.

[FR Doc. 04–19682 Filed 8–27–04; 8:45 am]

BILLING CODE 8320–01–P

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900–0212]

Agency Information Collection Activities Under OMB Review

AGENCY: Veterans Benefits Administration, Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (PRA) of 1995 (44 U.S.C. 3501–3521), this notice announces that the Veterans Benefits Administration (VBA), Department of Veterans Affairs, has submitted the collection of information abstracted below to the Office of Management and Budget (OMB) for review and comment. The PRA submission describes the nature of the information collection and its expected cost and burden; it includes the actual data collection instrument.

DATES: Comments must be submitted on or before September 29, 2004.

FOR FURTHER INFORMATION CONTACT: Denise McLamb, Records Management Service (005E3), Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420, (202) 273–8030, FAX (202) 273–5981 or e-mail *denise.mclamb@mail.va.gov.* Please refer to "OMB Control No. 2900–0212." Send comments and recommendations concerning any aspect of the information collection to VA's Desk Officer, OMB Human Resources and Housing Branch, New Executive Office Building, Room 10235, Washington, DC 20503, (202) 395–7316. Please refer to "OMB Control No. 2900–0212" in any correspondence.

SUPPLEMENTARY INFORMATION:

Title: Veterans Mortgage Life Insurance Statement, VA Form 29–8636.

OMB Control Number: 2900–0212.

Type of Review: Extension of a currently approved collection.

Abstract: VA Form 29–8636 is completed by veterans to decline Veterans Mortgage Life Insurance (VMLI) or to provide information upon which the insurance premium can be based. VMIL provides financial protection to cover an eligible veteran's outstanding home mortgage in the event of his or her death. The insurance is available only to disabled veterans who, because of their disability, have

received a specially adapted housing grant from VA.

An agency may not conduct or sponsor, and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number. The **Federal Register** Notice with a 60-day comment period soliciting comments on this collection of information was published on May 27, 2004 at pages 27972—27973.

Affected Public: Individuals or households.

Estimated Annual Burden: 113 hours.

Estimated Average Burden Per Respondent: 15 minutes.

Frequency of Response: On occasion.

Estimated Number of Respondents: 450.

Dated: August 17, 2004.

By direction of the Secretary.

Loise Russell,

Director, Records Management Service.

[FR Doc. 04–19683 Filed 8–27–04; 8:45 am]

BILLING CODE 8320–01–P

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900–0539]

Agency Information Collection Activities Under OMB Review

AGENCY: Veterans Benefits Administration, Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (PRA) of 1995 (44 U.S.C. 3501–3521), this notice announces that the Veterans Benefits Administration (VBA), Department of Veterans Affairs, has submitted the collection of information abstracted below to the Office of Management and Budget (OMB) for review and comment. The PRA submission describes the nature of the information collection and its expected cost and burden; it includes the actual data collection instrument.

DATES: Comments must be submitted on or before September 29, 2004.

FOR FURTHER INFORMATION CONTACT: Denise McLamb, Records Management Service (005E3), Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420, (202) 273–8030, fax (202) 273–5981, or e-mail *denise.mclamb@mail.va.gov.* Please refer to "OMB Control No. 2900–0539." Send comments and recommendations concerning any aspect of the information collection to VA's Desk Officer, OMB Human Resources and Housing Branch, New Executive Office Building, Room 10235, Washington, DC 20503, (202) 395–7316. Please refer to "OMB Control No. 2900–0539" in any correspondence.

SUPPLEMENTARY INFORMATION:

Title: Application for Supplemental Service Disabled Veterans Insurance, (RH) Life Insurance, VA Forms 29–0188, 29–0189 and 29–0190.

OMB Control Number: 2900–0539.

Type of Review: Extension of a currently approved collection.

Abstract: VA Forms 29–0188, 29–0189 and 29–0190 are completed by veterans applying for Supplemental Service Disabled Veterans Insurance. VA uses the information collected to establish a veteran's eligibility for insurance coverage.

An agency may not conduct or sponsor, and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number. The **Federal Register** Notice with a 60-day comment period soliciting comments on this collection of information was published on May 17, 2004 at page 27973.

Affected Public: Individuals or households.

Estimated Annual Burden: 3,333 hours.

Estimated Average Burden per Respondent: 20 minutes.

Frequency of Response: On occasion.

Estimated Number of Respondents: 10,000.

By direction of the Secretary.

Dated: August 16, 2004.

Cindy Stewart,

Program Analyst, Records Management Service.

[FR Doc. 04–19684 Filed 8–27–04; 8:45 am]

BILLING CODE 8320–01–P

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900–0138]

Agency Information Collection Activities Under OMB Review

AGENCY: Veterans Benefits Administration, Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (PRA) of 1995 (44 U.S.C. 3501–3521), this notice announces that the Veterans Benefits Administration (VBA), Department of Veterans Affairs, has submitted the collection of information abstracted below to the Office of Management and Budget (OMB) for review and comment. The PRA submission describes the nature of the information collection and its expected cost and burden; it includes the actual data collection instrument.

DATES: Comments must be submitted on or before September 29, 2004.

FOR FURTHER INFORMATION CONTACT: Denise McLamb, Records Management Service (005E3), Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420, (202) 273–8030, fax (202) 273–5981 or e-mail *denise.mclamb@mail.va.gov.* Please refer to "OMB Control No. 2900–0138." Send comments and recommendations concerning any aspect of the information collection to VA's OMB Desk Officer, OMB Human Resources and Housing Branch, New Executive Office Building, Room 10235, Washington, DC 20503 (202) 395–7316. Please refer to "OMB Control No. 2900–0138" in any correspondence.

SUPPLEMENTARY INFORMATION:

Title: Request for Details of Expenses, VA Form 21–8049.

OMB Control Number: 2900–0138.

Type of Review: Extension of a currently approved collection.

Abstract: VA Form 21–8049 is used to gather the necessary information to determine the amounts of any deductible expenses paid by the claimant and/or commercial life insurance received in order to adjust the annual income. Pension is an income-based program, and the payable rate depends on annual income. Without this information, VA would be unable to authorize pension benefits.

An agency may not conduct or sponsor, and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number. The **Federal Register** Notice with a 60-day comment period soliciting comments on this collection of information was published on June 8, 2004, at pages 32098–32099.

Affected Public: Individuals or households.

Estimated Annual Burden: 5,700 hours.

Estimated Average Burden per Respondent: 15 minutes.

Frequency of Response: One-time.

Estimated Number of Respondents: 22,800.

By direction of the Secretary.

Dated: August 17, 2004.

Loise Russell,

Director, Records Management Service.

[FR Doc. 04–19685 Filed 8–27–04; 8:45 am]

BILLING CODE 8320–01–P

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900–0080]

Agency Information Collection Activities Under OMB Review

AGENCY: Veterans Health Administration, Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (PRA) of 1995 (44 U.S.C. 3501–21), this notice announces that the Veterans Health Administration (VHA), Department of Veterans Affairs, has submitted the collection of information abstracted below to the Office of Management and Budget (OMB) for review and comment. The PRA submission describes the nature of the information collection and its expected cost and burden and includes the actual data collection instrument.

DATES: Comments must be submitted on or before September 29, 2004.

FOR FURTHER INFORMATION OR A COPY OF THE SUBMISSION CONTACT: Denise McLamb, Records Management Service (005E3), Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420, (202) 273–8030, fax (202) 273–5981 or e-mail to: *denise.mclamb@mail.va.gov*. Please refer to "OMB Control No. 2900–0080."

Send comments and recommendations concerning any aspect of the information collection to VA's OMB Desk Officer, OMB Human Resources and Housing Branch, New Executive Office Building, Room 10235, Washington, DC 20503, (202) 395–7316. Please refer to "OMB Control No. 2900–0080" in any correspondence.

SUPPLEMENTARY INFORMATION:

Titles:

a. Claim for Payment of Cost of Unauthorized Medical Services, VA Form 10–583.

b. Funeral Arrangements, VA Form 10–2065.

c. Authority and Invoice for Travel by Ambulance or Other Hired Vehicle, VA Form 10–2511.

d. Authorization and Invoice for Medical and Hospital Services, VA Form 10–7078.

OMB Control Number: 2900–0080.

Type of Review: Extension of a currently approved collection.

Abstract:

a. VA Form 10–583 is used by non-Department health care providers as a claim for the cost of unauthorized hospital and medial care they have provided and by veterans as a claim for reimbursement of such cost.

b. VA Form 10–2065 is completed during the interview with relatives of the deceased, and identifies the funeral home to which the remains are to be released. It is used as a control document when VA is requested to arrange for the transportation of the deceased from the place of death to the place of burial, and/or when burial is requested in a National Cemetery.

c. VA Form 10–7078 is used by administrative personnel in VA medical facilities to authorize expenditures from the medical care account and process payment of medical and hospital services provided by other than Federal health providers to VA beneficiaries.

d. VA Form 10–2511 is used by administrative personnel in VA facilities to authorize expenditures from the beneficiary travel account and to process payment for ambulance or other hired vehicular forms of transportation for eligible veterans to and from VA health care facilities for examination, treatment or care.

An agency may not conduct or sponsor, and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number. The **Federal Register** Notice with a 60-day comment period soliciting comments on this collection of information was published on June 2, 2004, at page 31158.

Affected Public: Business or other for profit, Individuals or households, and Not for profit institutions.

Estimated Total Annual Burden: 31,546 hours.

a. VA Form 10–583—17,188.

b. VA Form 10–2065—3,625.

c. VA Form 10–2511—2,333.

d. VA Form 10–7078—8,400.

Estimated Average Burden per Respondent:

a. VA Form 10–583—15 minutes.

b. VA Form 10–2065—5 minutes.

c. VA Form 10–2511—2 minutes.

d. VA Form 10–7078—2 minutes.

Frequency of Response: On occasion.

Estimated Number of Respondents: 434,250.

a. VA Form 10–583—68,750 respondents.

b. VA Form 10–2065—43,500 respondents.

c. VA Form 10–2511—70,000 respondents.

d. VA Form 10–7078—252,000 respondents.

By direction of the Secretary.

Dated: August 16, 2004.

Cindy Stewart,

Program Analyst, Records Management Service.

[FR Doc. 04–19686 Filed 8–27–04; 8:45 am]

BILLING CODE 8320–01–P

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900–0144]

Agency Information Collection Activities Under OMB Review

AGENCY: Veterans Benefits Administration, Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (PRA) of 1995 (44 U.S.C. 3501–21), this notice announces that the Veterans Benefits Administration (VBA), Department of Veterans Affairs, has submitted the collection of information abstracted below to the Office of Management and Budget (OMB) for review and comment. The PRA submission describes the nature of the information collection and its expected cost and burden and includes the actual data collection instrument.

DATES: Comments must be submitted on or before September 29, 2004.

FOR FURTHER INFORMATION CONTACT: Denise McLamb, Records Management Service (005E3), Department of Veterans Affairs, 810 Vermont Avenue, NW., or e-mail *denise.mclamb@mail.va.gov*. Please refer to "OMB Control No. 2900–0144." Send comments and recommendations concerning any aspect of the information collection to VA's OMB Desk Officer, OMB Human Resources and Housing Branch, New Executive Office Building, Room 10235, Washington, DC 20503 (202) 395–7316. Please refer to "OMB Control No. 2900–0144" in any correspondence.

SUPPLEMENTARY INFORMATION:

Titles: HUD/VA Addendum to Uniform Residential Loan Application, VA Form 26–1802a.

OMB Control Number: 2900–0144.

Type of Review: Extension of a currently approved collection.

Abstract: VA Form 26–1802a serves as a joint loan application for both VA and the Department of Housing and Urban Development (HUD). Lenders and veterans use the form to apply for guaranty of home loans.

An agency may not conduct or sponsor, and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number. The **Federal Register** Notice with a 60-day comment period soliciting comments on this collection of information was published on April 6, 2004, at page 18159.

Affected Public: Individuals or households and Business or other for profit.

Estimated Annual Burden: 20,000 hours.

Estimated Average Burden per Respondent: 6 minutes.

Frequency of Response: On occasion.

Estimated Number of Respondents: 200,000

By direction of the Secretary.

Dated. August 2, 2004.

Cindy Stewart,

Program Analyst, Records Management Service.

[FR Doc. 04–19687 Filed 8–27–04; 8:45 am]

BILLING CODE 8320–01–P

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900–0065]

Agency Information Collection Activities Under OMB Review

AGENCY: Veterans Benefits Administration, Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (PRA) of 1995 (44 U.S.C. 3501–3521), this notice announces that the Veterans Benefits Administration (VBA), Department of Veterans Affairs, has submitted the collection of information abstracted below to the Office of Management and Budget (OMB) for review and comment. The PRA submission describes the nature of the information collection and its expected cost and burden; it includes the actual data collection instrument.

DATES: Comments must be submitted on or before September 29, 2004.

FOR FURTHER INFORMATION CONTACT: Denise McLamb, Records Management Service (005E3), Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420, (202) 273–8030, FAX (202) 273–5981 or e-mail *denise.mclamb@mail.va.gov.* Please refer to "OMB Control No. 2900–0065." Send comments and recommendations concerning any aspect of the information collection to VA's OMB Desk Officer, OMB Human Resources and Housing Branch, New Executive Office Building, Room 10235, Washington, DC 20503, (202) 395–7316. Please refer to "OMB Control No. 2900–0065" in any correspondence.

SUPPLEMENTARY INFORMATION:

Title: Request for Employment Information in Connection with Claim for Disability Benefits, VA Form 21–4192.

OMB Control Number: 2900–0065.

Type of Review: Extension of a currently approved collection.

Abstract: VA Form 21–4192 is used to request employment information from a claimant's employer. The collected data is used to determine the claimant's eligibility for increased disability benefits based on unemployability.

An agency may not conduct or sponsor, and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number. The **Federal Register** Notice with a 60-day comment period soliciting comments on this collection of information was published on April 6, 2004, at page 18154.

Affected Public: Business or other for-profit.

Estimated Annual Burden: 15,000 hours.

Estimated Average Burden Per Respondent: 15 minutes.

Frequency of Response: One time.

Estimated Number of Respondents: 60,000.

Dated: August 11, 2004.

By direction of the Secretary.

Jacqueline Parks,

Program Analyst, Records Management Service.

[FR Doc. 04–19688 Filed 8–27–04; 8:45 am]

BILLING CODE 8320–01–P

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900–0442]

Agency Information Collection Activities Under OMB Review

AGENCY: Veterans Benefits Administration, Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (PRA) of 1995 (44 U.S.C. 3501–3521), this notice announces that the Veterans Benefits Administration (VBA), Department of Veterans Affairs, has submitted the collection of information abstracted below to the Office of Management and Budget (OMB) for review and comment. The PRA submission describes the nature of the information collection and its expected cost and burden; it includes the actual data collection instrument.

DATES: Comments must be submitted on or before September 29, 2004.

FOR FURTHER INFORMATION CONTACT: Denise McLamb, Records Management Service (005E3), Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420, (202) 273–8030, fax (202) 273–5981 or e-mail *denise.mclamb@mail.va.gov.* Please refer to "OMB Control No. 2900–0442." Send comments and recommendations concerning any aspect of the information collection to VA's OMB Desk Officer, OMB Human Resources and Housing Branch, New Executive Office Building, Room 10235, Washington, DC 20503 (202) 395–7316. Please refer to "OMB Control No. 2900–0442" in any correspondence.

SUPPLEMENTARY INFORMATION:

Title: Request for Armed Forces Separation Records from Veterans, VA Form Letter 21–80e.

OMB Control Number: 2900–0442.

Type of Review: Extension of a currently approved collection.

Abstract: VA Form Letter 21–80e is completed by the veteran to furnish additional information about his/her military service. In order to establish entitlement to compensation or pension benefits, a veteran must have had active military service that resulted in separation under other than dishonorable conditions. Benefits are not payable without verification of service.

An agency may not conduct or sponsor, and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number. The **Federal Register** Notice with a 60-day comment period soliciting comments on this collection of information was published on June 8, 2004 at page 32097.

Affected Public: Individuals or Households.

Estimated Annual Burden: 17,000 hours.

Estimated Average Burden per Respondent: 10 minutes.

Frequency of Response: One time.

Estimated Number of Respondents: 102,000.

By direction of the Secretary.

Dated: August 17, 2004.

Loise Russell,

Director, Records Management Service.

[FR Doc. 04–19689 Filed 8–27–04; 8:45 am]

BILLING CODE 8320–01–P

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900–0002]

Agency Information Collection Activities Under OMB Review

AGENCY: Veterans Benefits Administration, Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (PRA) of 1995 (44 U.S.C. 3501–3521), this notice

announces that the Veterans Benefits Administration (VBA), Department of Veterans Affairs, has submitted the collection of information abstracted below to the Office of Management and Budget (OMB) for review and comment. The PRA submission describes the nature of the information collection and its expected cost and burden; it includes the actual data collection instrument.

DATES: Comments must be submitted on or before September 29, 2004.

FOR FURTHER INFORMATION CONTACT: Denise McLamb, Records Management Service (005E3), Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420, (202) 273–8030, fax (202) 273–5981 or e-mail *denise.mclamb@mail.va.gov*. Please refer to "OMB Control No. 2900–0002." Send comments and recommendations concerning any aspect of the information collection to VA's OMB Desk Officer, OMB Human Resources and Housing Branch, New Executive Office Building, Room 10235, Washington, DC 20503 (202) 395–7316. Please refer to "OMB Control No. 2900–0002" in any correspondence.

SUPPLEMENTARY INFORMATION:

Title: Income-Net Worth and Employment Statement (In support of Claim for Total Disability Benefits), VA Form 21–527.

OMB Control Number: 2900–0002.

Type of Review: Extension of a currently approved collection.

Abstract: VA Form 21–527 is used by claimants who have previously filed a claim for compensation and/or pension and wish to file a new claim for disability pension or reopen a previously denied claim for disability pension.

An agency may not conduct or sponsor, and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number. The **Federal Register** Notice with a 60-day comment period soliciting comments on this collection of information was published on June 8, 2004, at page 32096.

Affected Public: Individuals or Households.

Estimated Annual Burden: 104,440 hours.

Estimated Average Burden Per Respondent: 60 minutes.

Frequency of Response: One-time.

Estimated Number of Respondents: 140,440.

By direction of the Secretary.

Dated: August 17, 2004.

Loise Russell,

Director, Records Management Service.

[FR Doc. 04–19690 Filed 8–27–04; 8:45 am]

BILLING CODE 8320–01–P

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900–0043]

Agency Information Collection Activities Under OMB Review

AGENCY: Veterans Benefits Administration, Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (PRA) of 1995 (44 U.S.C. 3501–3521), this notice announces that the Veterans Benefits Administration (VBA), Department of Veterans Affairs, has submitted the collection of information abstracted below to the Office of Management and Budget (OMB) for review and comment. The PRA submission describes the nature of the information collection and its expected cost and burden; it includes the actual data collection instrument.

DATES: Comments must be submitted on or before September 29, 2004.

FOR FURTHER INFORMATION CONTACT: Denise McLamb, Records Management Service (005E3), Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420, (202) 273–8030, FAX (202) 273–5981 or e-mail *denise.mclamb@mail.va.gov*. Please refer to "OMB Control No. 2900–0043." Send comments and recommendations concerning any aspect of the information collection to VA's OMB Desk Officer, OMB Human Resources and Housing Branch, New Executive Office Building, Room 10235, Washington, DC 20503, (202) 395–7316. Please refer to "OMB Control No. 2900–0043" in any correspondence.

SUPPLEMENTARY INFORMATION:

Titles: Declaration of Status of Dependents, VA Form 21–686c.

OMB Control Number: 2900–0043.

Type of Review: Extension of a currently approved collection.

Abstract: VA Form 21–686c is used to obtain information to confirm marital status and existence of any dependent child(ren). The information is used by VA to determine eligibility and rate of payment for veterans and surviving spouses who are entitled to an additional allowance for dependents.

An agency may not conduct or sponsor, and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number. The **Federal Register** Notice with a 60-day comment period soliciting comments on this collection of information was published on June 15, 2004 at pages 33467–33468.

Affected Public: Individuals or households.

Estimated Annual Burden: 56,500 hours.

Estimated Average Burden Per Respondent: 15 minutes.

Frequency of Response: On occasion.

Estimated Number of Respondents: 226,000.

Dated: August 16, 2004.

Loise Russell,

Director, Records Management Service.

[FR Doc. 04–19691 Filed 8–27–04; 8:45 am]

BILLING CODE 8320–01–P

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900–0066]

Agency Information Collection Activities Under OMB Review

AGENCY: Veterans Benefits Administration, Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (PRA) of 1995 (44 U.S.C. 3501–3521), this notice announces that the Veterans Benefits Administration (VBA), Department of Veterans Affairs, has submitted the collection of information abstracted below to the Office of Management and Budget (OMB) for review and comment. The PRA submission describes the nature of the information collection and its expected cost and burden; it includes the actual data collection instrument.

DATES: Comments must be submitted on or before September 29, 2004.

FOR FURTHER INFORMATION CONTACT: Denise McLamb, Records Management Service (005E3), Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420, (202) 273–8030, FAX (202) 273–5981 or e-mail *denise.mclamb@mail.va.gov*. Please refer to "OMB Control No. 2900–0066." Send comments and recommendations concerning any aspect of the information collection to VA's Desk Officer, OMB Human Resources and Housing Branch, New Executive Office Building, Room 10235, Washington, DC 20503, (202) 395–7316. Please refer to "OMB Control No. 2900–0066" in any correspondence.

SUPPLEMENTARY INFORMATION

Title: Request to Employer for Employment Information in Connection with Claim for Disability Benefits, VA Form Letter 29–459.

OMB Control Number: 2900–0066.

Type of Review: Extension of a currently approved collection.

Abstract: VA Form Letter 29–459 is used to request employment

information from an employer in connection with a claim for disability benefits. VA uses the information to establish the insured's eligibility for disability insurance benefits.

An agency may not conduct or sponsor, and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number. The **Federal Register** Notice with a 60-day comment period soliciting comments on this collection of information was published on June 2, 2004 at pages 31157—31158.

Affected Public: Individuals or households.

Estimated Annual Burden: 862 hours.

Estimated Average Burden Per Respondent: 10 minutes.

Frequency of Response: On occasion.

Estimated Number of Respondents: 5,167.

Dated: August 16, 2004.

By direction of the Secretary.

Cindy Stewart,

Program Analyst, Records Management Service.

[FR Doc. 04–19692 Filed 8–27–04; 8:45 am]

BILLING CODE 8320–01–P

Corrections

Federal Register
Vol. 69, No. 167
Monday, August 30, 2004

This section of the FEDERAL REGISTER contains editorial corrections of previously published Presidential, Rule, Proposed Rule, and Notice documents. These corrections are prepared by the Office of the Federal Register. Agency prepared corrections are issued as signed documents and appear in the appropriate document categories elsewhere in the issue.

DEPARTMENT OF THE TREASURY

Fiscal Service

31 CFR Part 356

Sale and Issue of Marketable Book–Entry Treasury Bills, Notes and Bonds— Plain Language Uniform Offering Circular

Correction

In rule document 04–17012 beginning on page 45202 in the issue of July 28, 2004, make the following corrections:

Appendix B to Part 356 [Corrected]

1. On page 45218, in the third column, the seventh equation should read:

$a_{n\rceil} = (1 - v^n) / (i/2) = v + v^2 + v^3 + ... + v^n$ = present value of 1 per period for n periods

2. On page 45219, in the first column, after paragraph C., under Definitions, the seventh equation should read:

$v^n = 1 / (1+.0853/2)^{10}$, or .658589

3. On page 45220, in the first column, under Definitions, the 16th equation should read:

$SA = P_{adj} + A_{adj}$

[FR Doc. C4–17012 Filed 8–27–04; 8:45 am]
BILLING CODE 1505–01–D

Federal Register

Monday,
August 30, 2004

Part II

Department of the Interior

Fish and Wildlife Service

50 CFR Part 20

Migratory Bird Hunting; Final Frameworks for Early-Season Migratory Bird Hunting Regulations; Final Rule

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 20

RIN: 1018–AT53

Migratory Bird Hunting; Final Frameworks for Early-Season Migratory Bird Hunting Regulations

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Final rule.

SUMMARY: This rule prescribes final early-season frameworks from which the States, Puerto Rico, and the Virgin Islands may select season dates, limits, and other options for the 2004–05 migratory bird hunting seasons. Early seasons are those that generally open prior to October 1, and include seasons in Alaska, Hawaii, Puerto Rico, and the Virgin Islands. The effect of this final rule is to facilitate the selection of hunting seasons by the States and Territories to further the annual establishment of the early-season migratory bird hunting regulations.

DATES: This rule takes effect on August 30, 2004.

ADDRESSES: States and Territories should send their season selections to: Chief, Division of Migratory Bird Management, U.S. Fish and Wildlife Service, Department of the Interior, ms MBSP–4107–ARLSQ, 1849 C Street, NW., Washington, DC 20240. You may inspect comments during normal business hours at the Service's office in room 4107, 4501 N. Fairfax Drive, Arlington, Virginia.

FOR FURTHER INFORMATION CONTACT: Brian Millsap, Chief, or Ron W. Kokel, Division of Migratory Bird Management, U.S. Fish and Wildlife Service, (703) 358–1714.

SUPPLEMENTARY INFORMATION:

Regulations Schedule for 2004

On March 22, 2004, we published in the **Federal Register** (69 FR 13440) a proposal to amend 50 CFR part 20. The proposal provided a background and overview of the migratory bird hunting regulations process, and dealt with the establishment of seasons, limits, the proposed regulatory alternatives for the 2004–05 duck hunting season, and other regulations for migratory game birds under §§ 20.101 through 20.107, 20.109, and 20.110 of subpart K. On June 9, 2004, we published in the **Federal Register** (69 FR 32418) a second document providing supplemental proposals for early- and late-season migratory bird hunting regulations frameworks and the regulatory alternatives for the 2004–05 duck hunting seasons. The June 9 supplement also provided detailed information on the 2004–05 regulatory schedule and announced the Service Migratory Bird Regulations Committee (SRC) and Flyway Council meetings.

On June 23 and 24, we held open meetings with the Flyway Council Consultants at which the participants reviewed information on the current status of migratory shore and upland game birds and developed recommendations for the 2004–05 regulations for these species plus regulations for migratory game birds in Alaska, Puerto Rico, and the Virgin Islands, special September waterfowl seasons in designated States, special sea duck seasons in the Atlantic Flyway, and extended falconry seasons. In addition, we reviewed and discussed preliminary information on the status of waterfowl as it relates to the development and selection of the regulatory packages for the 2004–05 regular waterfowl seasons. On July 21, we published in the **Federal Register** (69 FR 43694) a third document specifically dealing with the proposed frameworks for early-season regulations.

This document is the fourth in a series of proposed, supplemental, and final rulemaking documents. It establishes final frameworks from which States may select season dates, shooting hours, and daily bag and possession limits for the 2004–05 season. These selections will be published in the **Federal Register** as amendments to §§ 20.101 through 20.107, and § 20.109 of title 50 CFR part 20.

Review of Public Comments

The preliminary proposed rulemaking, which appeared in the March 22 **Federal Register**, opened the public comment period for migratory game bird hunting regulations. The public comment period for early-season issues ended on August 2, 2004. We have considered all pertinent comments received. Comments are summarized below and numbered in the order used in the March 22 **Federal Register**. We have included only the numbered items pertaining to early-season issues for which we received comments. Consequently, the issues do not follow in successive numerical or alphabetical order. We received recommendations from all Flyway Councils. Some recommendations supported continuation of last year's frameworks. Due to the comprehensive nature of the Councils' annual review of the frameworks, we assume Council support for continuation of last year's frameworks for items for which we received no recommendation. Council recommendations for changes are summarized below.

1. Ducks

Categories used to discuss issues related to duck harvest management are: (A) General Harvest Strategy, (B) Regulatory Alternatives, including specification of framework dates, season length, and bag limits, (C) Zones and Split Seasons, and (D) Special Seasons/Species Management. The categories correspond to previously published issues/discussions, and only those containing substantial recommendations are discussed below.

D. Special Seasons/Species Management

i. September Teal Seasons

Council Recommendations: The Central Flyway Council recommended that the Service change the status of the Nebraska September teal season from experimental to operational beginning with the 2004–05 hunting season. Criteria for Nebraska's September teal season would be the same as for other nonproduction Central Flyway States and confined to that area opened to teal hunting during the experimental phase. The Council believes that presunrise shooting hours are justified given results from evaluation of nontarget attempt rates.

Service Response: We concur.

iv. Canvasbacks

Council Recommendations: The Atlantic Flyway Council and the Upper- and Lower-Region Regulations Committees of the Mississippi Flyway Council recommended modifying the current Canvasback Harvest Strategy to allow partial seasons within the regular duck season. The harvest management strategy would include 3 levels: closed, "restrictive" season length, and full season.

The Central Flyway Council recommended managing canvasbacks with the "Hunters Choice Bag Limit" (aggregate daily bag limit of 1 hen mallard, mottled duck, pintail, or canvasback). The Council further recommends that until the "Hunter Choice Bag Limit" becomes available, the current strategy should be modified to include three levels of harvest opportunity: full, closed, and partial seasons. The partial season would consist of the "restrictive" season length (39 days in the Central Flyway).

The Pacific Flyway Council recommended modifying the current canvasback harvest management

strategy to allow partial canvasback seasons within regular duck season frameworks. The harvest management strategy would include four levels for the Pacific Flyway: "liberal"—107 days, "moderate"—86 days, "restrictive"—60 days, and closed seasons. The Council also recommended that the strategy include a statement specifying that Alaska's season will maintain a fixed restriction of one canvasback daily in lieu of the annual prescriptions from the strategy.

Service Response: The Service concurs with the Atlantic, Mississippi, and Central Flyway Council recommendations for modification of the canvasback harvest strategy to allow for two potential levels of canvasback seasons:

(1) An open season with daily bag and possession limits of 1 and 2, respectively, for the entire regular duck season whenever the allowable harvest projects a breeding population in the subsequent year of 500,000 or more canvasbacks;

(2) A partial season at the "restrictive" package level (30 days in the Atlantic and Mississippi Flyways, 39 days in the Central Flyway, and 60 in the Pacific Flyway) within the regular duck season whenever a full season projects a breeding population in the subsequent year of less than 500,000 but a partial season projects a breeding population of 500,000 or more birds; and

(3) Whenever the allowable harvest under both the full and partial seasons projects a breeding population in the subsequent year of less than 500,000, the season will be closed in all Flyways.

Season splits must conform to each State's zone/split configuration for duck hunting. If a State is authorized to split its regular duck season and chooses not to do so, the partial season may still be split into two segments. In Alaska, a 1-bird daily bag limit for the entire regular duck season length will be used in all years unless we determine that a complete season closure is in the best interest of the canvasback resource and believe it necessary to close the season in Alaska as well as in the lower 48 States.

v. Pintails

Council Recommendations: The Atlantic Flyway Council recommended modifying the Interim Strategy for Northern Pintail Harvest Management to allow partial seasons within the regular duck season. The Council recommended using partial seasons to allow hunting opportunity for this species when (1) a full season is predicted to return a breeding population below 1.5 million (the threshold for season closure) and (2) when a partial season is expected to return a breeding population at or above 1.5 million.

The Upper- and Lower-Region Regulations Committees of the Mississippi Flyway Council recommended that the current interim pintail harvest management strategy be modified to allow partial seasons within the regular duck hunting season. The harvest management strategy would include 3 levels: closed, "restrictive" season length, and full season.

The Central Flyway Council recommended that the interim pintail harvest strategy be revised as follows:

In the Central Flyway, pintails will be included in a "Hunters Choice" daily bag limit (hen mallard, or mottled duck, or pintail, or canvasback—daily bag of 1). When the interim pintail harvest strategy model projections allow for a daily bag of ≥2, pintails will be removed from the 1-bird aggregate bag and the prescribed daily bag limit will be selected.

If this recommendation was not approved, the Council recommended the following modification to the existing harvest strategy:

When the May Breeding Population Survey in the traditional survey areas is below 1.5 million or the projected fall flight is predicted to be below 2 million (as calculated by the models in the interim strategy), adopt the "restrictive" AHM package season length (39 days in the Central Flyway) with a daily bag limit of 1, if these regulations are projected to produce harvest at levels that would provide for the 6% annual growth identified as an objective in the strategy. If the Restrictive package regulations are expected to provide for <6% population growth, the season on pintails will be closed.

The Pacific Flyway Council recommended maintaining the Interim Northern Pintail Harvest Strategy as originally adopted by the Service.

Service Response: In 1997, the Service formally adopted the use of the interim pintail harvest strategy (62 FR 39712). The interim harvest strategy is based on a mathematical model of the continental pintail population and predicts allowable harvest of pintails in the lower 48 States based on the current size of the pintail breeding population, anticipated recruitment, anticipated natural mortality, anticipated mortality due to hunting, and the desired size of the population in the following spring. In 2002, we updated the harvest prediction equations with the concurrence of all four Flyway Councils (67 FR 40128).

In the March 22 **Federal Register**, we requested that the Flyway Councils consider a modification to the interim harvest strategy because for the 2002–03 and 2003–04 hunting seasons we had departed from the interim strategy by implementing partial seasons (67 FR 59110 and 68 FR 55784). We concur with the recommendations of the Atlantic, Mississippi, and Central Flyway Councils to include the use of partial seasons when circumstances warrant, and to modify the interim harvest strategy to provide for partial seasons under the following conditions:

When the current-year breeding population estimate for northern pintails is lower than 2.5 million *and* the population projection of the model in the harvest strategy predicts that the breeding population will decline in the following year.

The partial season will consist of the number of days currently allowed in all Flyways under the "restrictive" packages with a 1-bird daily bag limit. Under all other circumstances, all existing provisions and conditions of the current harvest strategy will continue to apply. Season splits must conform to each State's zone/split configuration for duck hunting. If a State is authorized to split its regular duck season and chooses not to do so, the partial season may still be split into two segments.

4. Canada Geese

A. Special Seasons

Council Recommendations: The Atlantic Flyway Council recommended that Connecticut's September goose season framework dates of September 1 to September 25 become operational.

The Upper- and Lower-Region Regulations Committees of the Mississippi Flyway Council recommended that Michigan be granted operational status for the September 1–10 early Canada goose season, with a 5-bird daily limit within Huron, Tuscola, and Saginaw Counties.

The Central Flyway Council recommended allowing a 3-year experimental late September Canada goose season in eastern Nebraska. The Council also recommended that South Dakota's 2000–02 3-year Experimental Late-September Canada Goose Hunting Season (September 16–30) become operational in 20 eastern South Dakota counties beginning with the September 2004 hunting season.

The Pacific Flyway Council recommended expanding the September season in Wyoming to include the entire Pacific Flyway portion of Wyoming, reducing the daily bag limit from 3 to

2, and eliminating the quota on the number of geese harvested.

Service Response: We concur with the recommendations regarding Connecticut, Michigan, Nebraska, South Dakota, and Wyoming's September goose seasons.

B. Regular Seasons

Council Recommendations: The Upper- and Lower-Region Regulations Committees of the Mississippi Flyway Council recommended that the framework opening date for all species of geese for the regular goose seasons be September 16 in 2004 and future years. If this recommendation is not approved, the Council recommended that the framework opening date for all species of geese for the regular goose seasons in Michigan and Wisconsin be September 16, 2004.

Service Response: We concur with the objective to increase harvest pressure on resident Canada geese in the Mississippi Flyway, and a Michigan evaluation of an earlier framework opening indicates that a September 16 opening date would accomplish that objective. However, a September 16 opening date Flyway-wide would require that the regular season be established during the early-season regulations process, which presents a number of administrative problems. In addition, a September 16 opening date has implications beyond the Mississippi Flyway, and the other Flyway Councils have not had a chance to consider the advisability of such an early opening in their respective Flyways. Therefore, we are deferring the decision on a September 16 opening until next year so that we and the Mississippi Flyway Council can consider the administrative ramifications of establishing regular goose season frameworks during the early-season process and to provide an opportunity for the other Flyway Councils to consider such a change.

Regarding the recommendations for a September 16 framework opening date in Wisconsin and Michigan in 2004, we concur. However, we will continue to consider the opening dates in both States as exceptions to the general Flyway opening date, to be reconsidered annually, until the issue of an earlier Flyway-wide opening date is addressed.

9. Sandhill Cranes

Council Recommendations: The Central Flyway Council recommended using the 2004 Rocky Mountain Population sandhill crane harvest allocation of 656 birds as proposed in the allocation formula using the 2001–03 3-year running average.

Service Response: We concur.

16. Mourning Doves

Council Recommendations: The Pacific Flyway Council recommended that the daily bag limit in Utah be changed from 10 mourning doves to 10 mourning and white-winged doves in the aggregate.

Written Comments: The Alabama Wildlife and Freshwater Fisheries Division requested moving Conecuh County from the South Zone to the North Zone for the 2004 season.

The Texas Parks and Wildlife Department requested that a portion of the South Zone be moved to the Central Zone to allow greater hunter utilization of the white-winged dove population around San Antonio. Texas also requested clarification regarding the framework opening date in its southern zone.

An individual from Louisiana requested a split dove season in the South Zone with the opening split earlier than September 20.

Service Response: We concur with the Pacific Flyway Council's recommendation concerning Utah's daily bag limit.

Regarding the requests by Texas and Alabama, the nature of the requests made us realize that we need to work with the States to review our current policy regarding zoning for dove hunting. In particular, we ask the Flyway Councils and Mourning Dove Management Unit Technical Committees to review the current policies regarding the use of zones and split seasons for dove hunting, with a view toward establishing guidelines for the use of these harvest-management tools, as has been done for waterfowl. Items to be considered should include the number of zone/split-season configurations that could be used, the frequency with which those configurations could be changed, and the need for a restricted framework opening date in south zones.

Regarding the specific zoning requests this year, we concur with the requests by Alabama and Texas to modify their existing zone boundaries. Our approval is based largely on our past history of approving these types of requests and the fact that we anticipate no adverse biological impact by these proposed changes. In the future, however, we will be very reluctant to approve any request for zone boundary changes until the development and approval of a new policy on zoning. Additionally, we ask that all future zoning requests come through the appropriate Technical Committees and Flyway Councils.

Regarding the issue of framework opening dates in south zones prior to September 20, there is no precedent for the requested change and we desire to wait for Flyway Council and Dove Technical Committee review of the current zoning policies and the cooperative development of guidelines for the use of zones and split seasons before departing from the current policy.

18. Alaska

Council Recommendations: The Pacific Flyway Council recommends that the tundra swan season in Unit 17 become operational.

Service Response: We concur.

NEPA Consideration

NEPA considerations are covered by the programmatic document, "Final Supplemental Environmental Impact Statement: Issuance of Annual Regulations Permitting the Sport Hunting of Migratory Birds (FSES 88–14)," filed with the Environmental Protection Agency on June 9, 1988. We published a Notice of Availability in the **Federal Register** on June 16, 1988 (53 FR 22582). We published our Record of Decision on August 18, 1988 (53 FR 31341). In addition, an August 1985 environmental assessment entitled "Guidelines for Migratory Bird Hunting Regulations on Federal Indian Reservations and Ceded Lands" is available from the address indicated under the caption **ADDRESSES.**

In a proposed rule published in the April 30, 2001, **Federal Register** (66 FR 21298), we expressed our intent to begin the process of developing a new Supplemental Environmental Impact Statement for the migratory bird hunting program. We plan to begin the public scoping process in 2005.

Endangered Species Act Consideration

Section 7 of the Endangered Species Act, as amended (16 U.S.C. 1531–1543; 87 Stat. 884), provides that, "The Secretary shall review other programs administered by him and utilize such programs in furtherance of the purposes of this Act" (and) shall "insure that any action authorized, funded, or carried out * * * is not likely to jeopardize the continued existence of any endangered species or threatened species or result in the destruction or adverse modification of [critical] habitat. * * *" Consequently, we conducted formal consultations to ensure that actions resulting from these regulations would not likely jeopardize the continued existence of endangered or threatened species or result in the destruction or adverse modification of their critical habitat. Findings from these consultations are included in a

biological opinion, which concluded that the regulations are not likely to adversely affect any endangered or threatened species. Additionally, these findings may have caused modification of some regulatory measures previously proposed, and the final frameworks reflect any such modifications. Our biological opinions resulting from this Section 7 consultation are public documents available for public inspection at the address indicated under **ADDRESSES.**

Executive Order 12866

The migratory bird hunting regulations are economically significant and were reviewed by the Office of Management and Budget (OMB) under Executive Order 12866. As such, a cost/benefit analysis was initially prepared in 1981. This analysis was subsequently revised annually from 1990 to 1996, and then updated in 1998. We have updated again this year. It is further discussed below under the heading Regulatory Flexibility Act. Results from the 2004 analysis indicate that the expected welfare benefit of the annual migratory bird hunting frameworks is on the order of $734 million to $1.064 billion, with a midpoint estimate of $899 million. Copies of the cost/benefit analysis are available upon request from the address indicated under **ADDRESSES** or from our Web site at *http://www.migratorybirds.gov.*

Regulatory Flexibility Act

These regulations have a significant economic impact on substantial numbers of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). We analyzed the economic impacts of the annual hunting regulations on small business entities in detail as part of the 1981 cost-benefit analysis discussed under Executive Order 12866. This analysis was revised annually from 1990 through 1995. In 1995, the Service issued a Small Entity Flexibility Analysis (Analysis), which was subsequently updated in 1996, 1998, and 2004. The primary source of information about hunter expenditures for migratory game bird hunting is the National Hunting and Fishing Survey, which is conducted at 5-year intervals. The 2004 Analysis was based on the 2001 National Hunting and Fishing Survey and the U.S. Department of Commerce's County Business Patterns, from which it was estimated that migratory bird hunters would spend between $481 million and $1.2 billion at small businesses in 2004. Copies of the Analysis are available upon request from the address indicated under **ADDRESSES** or from our Web site at *www.migratorybirds.gov.*

Small Business Regulatory Enforcement Fairness Act

This rule is a major rule under 5 U.S.C. 804(2), the Small Business Regulatory Enforcement Fairness Act. For the reasons outlined above, this rule has an annual effect on the economy of $100 million or more. However, because this rule establishes hunting seasons, we do not plan to defer the effective date required by 5 U.S.C. 801 under the exemption contained in 5 U.S.C. 808 (1).

Paperwork Reduction Act

We examined these regulations under the Paperwork Reduction Act of 1995. The various recordkeeping and reporting requirements imposed under regulations established in 50 CFR part 20, subpart K, are utilized in the formulation of migratory game bird hunting regulations. Specifically, OMB has approved the information collection requirements of the Migratory Bird Harvest Information Program and assigned clearance number 1018–0015 (expires 10/31/2004). This information is used to provide a sampling frame for voluntary national surveys to improve our harvest estimates for all migratory game birds in order to better manage these populations. OMB has also approved the information collection requirements of the Sandhill Crane Harvest Questionnaire and assigned clearance number 1018–0023 (expires 10/31/2004). The information from this survey is used to estimate the magnitude and the geographical and temporal distribution of the harvest, and the portion it constitutes of the total population.

A Federal 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.

Unfunded Mandates Reform Act

We have determined and certify, in compliance with the requirements of the Unfunded Mandates Reform Act, 2 U.S.C. 1502 *et seq.*, that this rulemaking will not impose a cost of $100 million or more in any given year on local or State government or private entities. Therefore, this rule is not a "significant regulatory action" under the Unfunded Mandates Reform Act.

Civil Justice Reform—Executive Order 12988

The Department, in promulgating this rule, has determined that it will not unduly burden the judicial system and that it meets the requirements of sections 3(a) and 3(b)(2) of Executive Order 12988.

Takings Implication Assessment

In accordance with Executive Order 12630, this rule, authorized by the Migratory Bird Treaty Act, does not have significant takings implications and does not affect any constitutionally protected property rights. This rule will not result in the physical occupancy of property, the physical invasion of property, or the regulatory taking of any property. In fact, these rules allow hunters to exercise otherwise unavailable privileges and, therefore, reduce restrictions on the use of private and public property.

Energy Effects—Executive Order 13211

On May 18, 2001, the President issued Executive Order 13211 on regulations that significantly affect energy supply, distribution, and use. Executive Order 13211 requires agencies to prepare Statements of Energy Effects when undertaking certain actions. While this rule is a significant regulatory action under Executive Order 12866, it is not expected to adversely affect energy supplies, distribution, or use. Therefore, this action is not a significant energy action and no Statement of Energy Effects is required.

Federalism Effects

Due to the migratory nature of certain species of birds, the Federal Government has been given responsibility over these species by the Migratory Bird Treaty Act. We annually prescribe frameworks from which the States make selections regarding the hunting of migratory birds, and we employ guidelines to establish special regulations on Federal Indian reservations and ceded lands. This process preserves the ability of the States and tribes to determine which seasons meet their individual needs. Any State or tribe may be more restrictive than the Federal frameworks at any time. The frameworks are developed in a cooperative process with the States and the Flyway Councils. This process allows States to participate in the development of frameworks from which they will make selections, thereby having an influence on their own regulations. These rules do not have a substantial direct effect on fiscal capacity, change the roles or responsibilities of Federal or State governments, or intrude on State policy or administration. Therefore, in accordance with Executive Order 13132, these regulations do not have significant federalism effects and do not have sufficient federalism implications to

warrant the preparation of a Federalism Assessment.

Regulations Promulgation

The rulemaking process for migratory game bird hunting must, by its nature, operate under severe time constraints. However, we intend that the public be given the greatest possible opportunity to comment. Thus, when the preliminary proposed rulemaking was published, we established what we believed were the longest periods possible for public comment. In doing this, we recognized that when the comment period closed, time would be of the essence. That is, if there were a delay in the effective date of these regulations after this final rulemaking, States would have insufficient time to select season dates and limits; to communicate those selections to us; and to establish and publicize the necessary regulations and procedures to implement their decisions. We therefore find that "good cause" exists, within the terms of 5 U.S.C. 553(d)(3) of the Administrative Procedure Act, and these frameworks will, therefore, take effect immediately upon publication.

Therefore, under authority of the Migratory Bird Treaty Act (July 3, 1918), as amended (16 U.S.C. 703–711), we prescribe final frameworks setting forth the species to be hunted, the daily bag and possession limits, the shooting hours, the season lengths, the earliest opening and latest closing season dates, and hunting areas, from which State conservation agency officials will select hunting season dates and other options. Upon receipt of season and option selections from these officials, we will publish in the **Federal Register** a final rulemaking amending 50 CFR part 20 to reflect seasons, limits, and shooting hours for the conterminous United States for the 2004–05 season.

List of Subjects in 50 CFR Part 20

Exports, Hunting, Imports, Reporting and recordkeeping requirements, Transportation, Wildlife.

The rules that eventually will be promulgated for the 2004–05 hunting season are authorized under 16 U.S.C. 703–712 and 16 U.S.C. 742 a–j.

Dated: August 16, 2004.

David P. Smith,

Acting Assistant Secretary for Fish and Wildlife and Parks.

Final Regulations Frameworks for 2004–05 Early Hunting Seasons on Certain Migratory Game Birds

Pursuant to the Migratory Bird Treaty Act and delegated authorities, the Department of the Interior approved the following frameworks, which prescribe season lengths, bag limits, shooting hours, and outside dates within which States may select hunting seasons for certain migratory game birds between September 1, 2004, and March 10, 2005.

General

Dates: All outside dates noted below are inclusive.

Shooting and Hawking (taking by falconry) Hours: Unless otherwise specified, from one-half hour before sunrise to sunset daily.

Possession Limits: Unless otherwise specified, possession limits are twice the daily bag limit.

Flyways and Management Units

Waterfowl Flyways

Atlantic Flyway—includes Connecticut, Delaware, Florida, Georgia, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, North Carolina, Pennsylvania, Rhode Island, South Carolina, Vermont, Virginia, and West Virginia.

Mississippi Flyway—includes Alabama, Arkansas, Illinois, Indiana, Iowa, Kentucky, Louisiana, Michigan, Minnesota, Mississippi, Missouri, Ohio, Tennessee, and Wisconsin.

Central Flyway—includes Colorado (east of the Continental Divide), Kansas, Montana (Counties of Blaine, Carbon, Fergus, Judith Basin, Stillwater, Sweetgrass, Wheatland, and all counties east thereof), Nebraska, New Mexico (east of the Continental Divide except the Jicarilla Apache Indian Reservation), North Dakota, Oklahoma, South Dakota, Texas, and Wyoming (east of the Continental Divide).

Pacific Flyway—includes Alaska, Arizona, California, Idaho, Nevada, Oregon, Utah, Washington, and those portions of Colorado, Montana, New Mexico, and Wyoming not included in the Central Flyway.

Management Units

Mourning Dove Management Units

Eastern Management Unit—All States east of the Mississippi River, and Louisiana.

Central Management Unit—Arkansas, Colorado, Iowa, Kansas, Minnesota, Missouri, Montana, Nebraska, New Mexico, North Dakota, Oklahoma, South Dakota, Texas, and Wyoming.

Western Management Unit—Arizona, California, Idaho, Nevada, Oregon, Utah, and Washington.

Woodcock Management Regions

Eastern Management Region—Connecticut, Delaware, Florida, Georgia, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, North Carolina, Pennsylvania, Rhode Island, South Carolina, Vermont, Virginia, and West Virginia.

Central Management Region—Alabama, Arkansas, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Michigan, Minnesota, Mississippi, Missouri, Nebraska, North Dakota, Ohio, Oklahoma, South Dakota, Tennessee, Texas, and Wisconsin.

Other geographic descriptions are contained in a later portion of this document.

Compensatory Days in the Atlantic Flyway: In the Atlantic Flyway States of Connecticut, Delaware, Maine, Maryland, Massachusetts, New Jersey, North Carolina, Pennsylvania, and Virginia, where Sunday hunting is prohibited statewide by State law, all Sundays are closed to all take of migratory waterfowl (including mergansers and coots).

Special September Teal Season

Outside Dates: Between September 1 and September 30, an open season on all species of teal may be selected by the following States in areas delineated by State regulations:

Atlantic Flyway—Delaware, Florida, Georgia, Maryland, North Carolina, South Carolina, and Virginia.

Mississippi Flyway—Alabama, Arkansas, Illinois, Indiana, Kentucky, Louisiana, Mississippi, Missouri, Ohio, and Tennessee.

Central Flyway—Colorado (part), Kansas, Nebraska (part), New Mexico (part), Oklahoma, and Texas.

Hunting Seasons and Daily Bag Limits: Not to exceed 9 consecutive days. The daily bag limit is 4 teal.

Shooting Hours:

Atlantic Flyway—One-half hour before sunrise to sunset except in Maryland, where the hours are from sunrise to sunset.

Mississippi and Central Flyways—One-half hour before sunrise to sunset, except in the States of Arkansas, Illinois, Indiana, Missouri, and Ohio, where the hours are from sunrise to sunset.

Special September Duck Seasons

Florida, Kentucky and Tennessee: In lieu of a special September teal season, a 5-consecutive-day season may be selected in September. The daily bag limit may not exceed 4 teal and wood ducks in the aggregate, of which no more than 2 may be wood ducks.

Iowa: Iowa may hold up to 5 days of its regular duck hunting season in September. All ducks that are legal during the regular duck season may be taken during the September segment of

the season. The September season segment may commence no earlier than the Saturday nearest September 20 (September 18). The daily bag and possession limits will be the same as those in effect last year, but are subject to change during the late-season regulations process. The remainder of the regular duck season may not begin before October 10.

Special Youth Waterfowl Hunting Days

Outside Dates: States may select two consecutive days (hunting days in Atlantic Flyway States with compensatory days) per duck-hunting zone, designated as "Youth Waterfowl Hunting Days," in addition to their regular duck seasons. The days must be held outside any regular duck season on a weekend, holidays, or other non-school days when youth hunters would have the maximum opportunity to participate. The days may be held up to 14 days before or after any regular duck-season frameworks or within any split of a regular duck season, or within any other open season on migratory birds.

Daily Bag Limits: The daily bag limits may include ducks, geese, mergansers, coots, moorhens, and gallinules and would be the same as those allowed in the regular season. Flyway species and area restrictions would remain in effect.

Shooting Hours: One-half hour before sunrise to sunset.

Participation Restrictions: Youth hunters must be 15 years of age or younger. In addition, an adult at least 18 years of age must accompany the youth hunter into the field. This adult may not duck hunt but may participate in other seasons that are open on the special youth day.

Scoter, Eider, and Oldsquaw Ducks (Atlantic Flyway)

Outside Dates: Between September 15 and January 31.

Hunting Seasons and Daily Bag Limits: Not to exceed 107 days, with a daily bag limit of 7, singly or in the aggregate, of the listed sea-duck species, of which no more than 4 may be scoters.

Daily Bag Limits During the Regular Duck Season: Within the special sea duck areas, during the regular duck season in the Atlantic Flyway, States may choose to allow the above sea duck limits in addition to the limits applying to other ducks during the regular duck season. In all other areas, sea ducks may be taken only during the regular open season for ducks and are part of the regular duck season daily bag (not to exceed 4 scoters) and possession limits.

Areas: In all coastal waters and all waters of rivers and streams seaward from the first upstream bridge in Maine, New Hampshire, Massachusetts, Rhode Island, Connecticut, and New York; in any waters of the Atlantic Ocean and in any tidal waters of any bay which are separated by at least 1 mile of open water from any shore, island, and emergent vegetation in New Jersey, South Carolina, and Georgia; and in any waters of the Atlantic Ocean and in any tidal waters of any bay which are separated by at least 800 yards of open water from any shore, island, and emergent vegetation in Delaware, Maryland, North Carolina, and Virginia; and provided that any such areas have been described, delineated, and designated as special sea-duck hunting areas under the hunting regulations adopted by the respective States.

Special Early Canada Goose Seasons

Atlantic Flyway

General Seasons

Canada goose seasons of up to 15 days during September 1–15 may be selected for the Eastern Unit of Maryland and Delaware. Seasons not to exceed 30 days during September 1–30 may be selected for the Northeast Hunt Unit of North Carolina, New Jersey, and Rhode Island. Except for experimental seasons described below, seasons may not exceed 25 days during September 1–25 in the remainder of the Flyway. Areas open to the hunting of Canada geese must be described, delineated, and designated as such in each State's hunting regulations.

Daily Bag Limits: Not to exceed 8 Canada geese.

Experimental Seasons

Experimental Canada goose seasons of up to 25 days during September 1–25 may be selected for the Montezuma Region of New York and the Lake Champlain Region of New York and Vermont. Experimental seasons of up to 30 days during September 1–30 may be selected by Connecticut, Florida, Georgia, New York (Long Island Zone), North Carolina (except in the Northeast Hunt Unit), and South Carolina. Areas open to the hunting of Canada geese must be described, delineated, and designated as such in each State's hunting regulations.

Daily Bag Limits: Not to exceed 8 Canada geese.

Mississippi Flyway

General Seasons

Canada goose seasons of up to 15 days during September 1–15 may be selected, except in the Upper Peninsula in Michigan, where the season may not extend beyond September 10, and in Minnesota (except in the Northwest Goose Zone), where a season of up to 22 days during September 1–22 may be selected. The daily bag limit may not exceed 5 Canada geese. Areas open to the hunting of Canada geese must be described, delineated, and designated as such in each State's hunting regulations.

A Canada goose season of up to 10 consecutive days during September 1–10 may be selected by Michigan for Huron, Saginaw, and Tuscola Counties, except that the Shiawassee National Wildlife Refuge, Shiawassee River State Game Area Refuge, and the Fish Point Wildlife Area Refuge will remain closed. The daily bag limit may not exceed 5 Canada geese.

Central Flyway

General Seasons

Canada goose seasons of up to 15 days during September 1–15 may be selected. The daily bag limit may not exceed 5 Canada geese. Areas open to the hunting of Canada geese must be described, delineated, and designated as such in each State's hunting regulations.

A Canada goose season of up to 15 consecutive days during September 16–30 may be selected by South Dakota. The daily bag limit may not exceed 5 Canada geese.

Experimental Seasons

An experimental Canada goose season of up to 9 consecutive days during September 22–30 may be selected by Oklahoma. The daily bag limit may not exceed 5 Canada geese.

An experimental Canada goose season of up to 15 consecutive days during September 16–30 may be selected by Nebraska. The daily bag limit may not exceed 5 Canada geese.

Pacific Flyway

General Seasons

California may select a 9-day season in Humboldt County during the period September 1–15. The daily bag limit is 2.

Colorado may select a 9-day season during the period of September 1–15. The daily bag limit is 3.

Oregon may select a special Canada goose season of up to 15 days during the period September 1–15. In addition, in the NW goose management zone in Oregon, a 15-day season may be selected during the period September 1–20. Daily bag limits may not exceed 5 Canada geese.

Idaho may select a 7-day season in the special East Canada Goose Zone, as described in State regulations, during the period September 1–15. All participants must have a valid State

permit, and the total number of permits issued is not to exceed 110 for this zone. The daily bag limit is 2.

Idaho may select a 7-day Canada goose season during the period September 1–15 in Nez Perce County, with a bag limit of 4.

Washington may select a special Canada goose season of up to 15 days during the period September 1–15. Daily bag limits may not exceed 5 Canada geese.

Wyoming may select an 8-day season on Canada geese between September 1–15. This season is subject to the following conditions:

1. Where applicable, the season must be concurrent with the September portion of the sandhill crane season.

2. A daily bag limit of 2, with season and possession limits of 4, will apply to the special season.

Areas open to hunting of Canada geese in each State must be described, delineated, and designated as such in each State's hunting regulations.

Regular Goose Seasons

Regular goose seasons may open as early as September 16 in Wisconsin and Michigan. Season lengths, bag and possession limits, and other provisions will be established during the late-season regulations process.

Sandhill Cranes

Regular Seasons in the Central Flyway:

Outside Dates: Between September 1 and February 28.

Hunting Seasons: Seasons not to exceed 37 consecutive days may be selected in designated portions of North Dakota (Area 2) and Texas (Area 2). Seasons not to exceed 58 consecutive days may be selected in designated portions of the following States: Colorado, Kansas, Montana, North Dakota, South Dakota, and Wyoming. Seasons not to exceed 93 consecutive days may be selected in designated portions of the following States: New Mexico, Oklahoma, and Texas.

Daily Bag Limits: 3 sandhill cranes, except 2 sandhill cranes in designated portions of North Dakota (Area 2) and Texas (Area 2).

Permits: Each person participating in the regular sandhill crane seasons must have a valid Federal sandhill crane hunting permit and/or, in those States where a Federal sandhill crane permit is not issued, a State-issued Harvest Information Survey Program (HIP) certification for game bird hunting in their possession while hunting.

Special Seasons in the Central and Pacific Flyways:

Arizona, Colorado, Idaho, Montana, New Mexico, Utah, and Wyoming may select seasons for hunting sandhill cranes within the range of the Rocky Mountain Population (RMP) subject to the following conditions:

Outside Dates: Between September 1 and January 31.

Hunting Seasons: The season in any State or zone may not exceed 30 days.

Bag limits: Not to exceed 3 daily and 9 per season.

Permits: Participants must have a valid permit, issued by the appropriate State, in their possession while hunting.

Other provisions: Numbers of permits, open areas, season dates, protection plans for other species, and other provisions of seasons must be consistent with the management plan and approved by the Central and Pacific Flyway Councils with the following exceptions:

1. In Utah, the requirement for monitoring the racial composition of the harvest in the experimental season is waived, and 100 percent of the harvest will be assigned to the RMP quota;

2. In Arizona, the annual requirement for monitoring the racial composition of the harvest is changed to once every 3 years;

3. In Idaho, seasons are experimental, and the requirement for monitoring the racial composition of the harvest is waived; 100 percent of the harvest will be assigned to the RMP quota; and

4. In New Mexico, the season in the Estancia Valley is experimental, with a requirement to monitor the level and racial composition of the harvest; greater sandhill cranes in the harvest will be assigned to the RMP quota.

Common Moorhens and Purple Gallinules

Outside Dates: Between September 1 and January 20 in the Atlantic Flyway, and between September 1 and the Sunday nearest January 20 (January 23) in the Mississippi and Central Flyways. States in the Pacific Flyway have been allowed to select their hunting seasons between the outside dates for the season on ducks; therefore, they are late-season frameworks, and no frameworks are provided in this document.

Hunting Seasons and Daily Bag Limits: Seasons may not exceed 70 days in the Atlantic, Mississippi, and Central Flyways. Seasons may be split into 2 segments. The daily bag limit is 15 common moorhens and purple gallinules, singly or in the aggregate of the two species.

Zoning: Seasons may be selected by zones established for duck hunting.

Rails

Outside Dates: States included herein may select seasons between September 1 and January 20 on clapper, king, sora, and Virginia rails.

Hunting Seasons: The season may not exceed 70 days, and may be split into 2 segments.

Daily Bag Limits:

Clapper and King Rails—In Rhode Island, Connecticut, New Jersey, Delaware, and Maryland, 10, singly or in the aggregate of the two species. In Texas, Louisiana, Mississippi, Alabama, Georgia, Florida, South Carolina, North Carolina, and Virginia, 15, singly or in the aggregate of the two species.

Sora and Virginia Rails—In the Atlantic, Mississippi, and Central Flyways and the Pacific-Flyway portions of Colorado, Montana, New Mexico, and Wyoming, 25 daily and 25 in possession, singly or in the aggregate of the two species. The season is closed in the remainder of the Pacific Flyway.

Common Snipe

Outside Dates: Between September 1 and February 28, except in Maine, Vermont, New Hampshire, Massachusetts, Rhode Island, Connecticut, New York, New Jersey, Delaware, Maryland, and Virginia, where the season must end no later than January 31.

Hunting Seasons and Daily Bag Limits: Seasons may not exceed 107 days and may be split into two segments. The daily bag limit is 8 snipe.

Zoning: Seasons may be selected by zones established for duck hunting.

American Woodcock

Outside Dates: States in the Eastern Management Region may select hunting seasons between October 1 and January 31. States in the Central Management Region may select hunting seasons between the Saturday nearest September 22 (September 25) and January 31.

Hunting Seasons and Daily Bag Limits: Seasons may not exceed 30 days in the Eastern Region and 45 days in the Central Region. The daily bag limit is 3. Seasons may be split into two segments.

Zoning: New Jersey may select seasons in each of two zones. The season in each zone may not exceed 24 days.

Band-Tailed Pigeons

Pacific Coast States (California, Oregon, Washington, and Nevada)

Outside Dates: Between September 15 and January 1.

Hunting Seasons and Daily Bag Limits: Not more than 9 consecutive days, with a daily bag limit of 2 band-tailed pigeons.

Zoning: California may select hunting seasons not to exceed 9 consecutive

days in each of two zones. The season in the North Zone must close by October 3.

Four-Corners States (Arizona, Colorado, New Mexico, and Utah)

Outside Dates: Between September 1 and November 30.

Hunting Seasons and Daily Bag Limits: Not more than 30 consecutive days, with a daily bag limit of 5 band-tailed pigeons.

Zoning: New Mexico may select hunting seasons not to exceed 20 consecutive days in each of two zones. The season in the South Zone may not open until October 1.

Mourning Doves

Outside Dates: Between September 1 and January 15, except as otherwise provided, States may select hunting seasons and daily bag limits as follows:

Eastern Management Unit

Hunting Seasons and Daily Bag Limits: Not more than 70 days with a daily bag limit of 12, or not more than 60 days with a daily bag limit of 15.

Zoning and Split Seasons: States may select hunting seasons in each of two zones. The season within each zone may be split into not more than three periods. The hunting seasons in the South Zones of Alabama, Florida, Georgia, and Louisiana may commence no earlier than September 20. Regulations for bag and possession limits, season length, and shooting hours must be uniform within specific hunting zones.

Central Management Unit

Hunting Seasons and Daily Bag Limits: Not more than 70 days with a daily bag limit of 12 mourning and white-winged doves in the aggregate, or not more than 60 days with a bag limit of 15 mourning and white-winged doves in the aggregate.

Zoning and Split Seasons

States may select hunting seasons in each of two zones. The season within each zone may be split into not more than three periods.

Texas may select hunting seasons for each of three zones subject to the following conditions:

A. The hunting season may be split into not more than two periods, except in that portion of Texas in which the special white-winged dove season is allowed, where a limited mourning dove season may be held concurrently with that special season (see white-winged dove frameworks).

B. A season may be selected for the North and Central Zones between September 1 and January 25; and for the South Zone between September 20 and January 25.

C. Daily bag limits are aggregate bag limits with mourning, white-winged, and white-tipped doves (see white-winged dove frameworks for specific daily bag limit restrictions).

D. Except as noted above, regulations for bag and possession limits, season length, and shooting hours must be uniform within each hunting zone.

Western Management Unit

Hunting Seasons and Daily Bag Limits

Idaho, Oregon, and Washington—Not more than 30 consecutive days with a daily bag limit of 10 mourning doves.

Utah—Not more than 30 consecutive days with a daily bag limit that may not exceed 10 mourning doves and white-winged doves in the aggregate.

Nevada—Not more than 30 consecutive days with a daily bag limit of 10 mourning doves, except in Clark and Nye Counties, where the daily bag limit may not exceed 10 mourning and white-winged doves in the aggregate.

Arizona and California—Not more than 60 days, which may be split between two periods, September 1–15 and November 1–January 15. In Arizona, during the first segment of the season, the daily bag limit is 10 mourning and white-winged doves in the aggregate, of which no more than 6 may be white-winged doves. During the remainder of the season, the daily bag limit is 10 mourning doves. In California, the daily bag limit is 10 mourning doves, except in Imperial, Riverside, and San Bernardino Counties, where the daily bag limit may not exceed 10 mourning and white-winged doves in the aggregate.

White-Winged and White-Tipped Doves

Hunting Seasons and Daily Bag Limits

Except as shown below, seasons must be concurrent with mourning dove seasons.

Eastern Management Unit

In Florida, the daily bag limit may not exceed 12 mourning and white-winged doves (15 under the alternative) in the aggregate, of which no more than 4 may be white-winged doves.

In the remainder of the Eastern Management Unit, the season is closed.

Central Management Unit

In Texas, the daily bag limit may not exceed 12 mourning, white-winged, and white-tipped doves (15 under the alternative) in the aggregate, of which no more than 2 may be white-tipped doves. In addition, Texas also may select a hunting season of not more than 4 days for the special white-winged dove area of the South Zone between September 1 and September 19. The daily bag limit may not exceed 10 white-winged, mourning, and white-tipped doves in the aggregate, of which no more than 5 may be mourning doves and 2 may be white-tipped doves.

In the remainder of the Central Management Unit, the daily bag limit may not exceed 12 (15 under the alternative) mourning and white-winged doves in the aggregate.

Western Management Unit

Arizona may select a hunting season of not more than 30 consecutive days, running concurrently with the first segment of the mourning dove season. The daily bag limit may not exceed 10 mourning and white-winged doves in the aggregate, of which no more than 6 may be white-winged doves.

In Utah, the Nevada Counties of Clark and Nye, and in the California Counties of Imperial, Riverside, and San Bernardino, the daily bag limit may not exceed 10 mourning and white-winged doves in the aggregate.

In the remainder of the Western Management Unit, the season is closed.

Alaska

Outside Dates: Between September 1 and January 26.

Hunting Seasons: Alaska may select 107 consecutive days for waterfowl, sandhill cranes, and common snipe in each of 5 zones. The season may be split without penalty in the Kodiak Zone. The seasons in each zone must be concurrent.

Closures: The season is closed on Canada geese from Unimak Pass westward in the Aleutian Island chain. The hunting season is closed on emperor geese, spectacled eiders, and Steller's eiders.

Daily Bag and Possession Limits

Ducks—Except as noted, a basic daily bag limit of 7 and a possession limit of 21 ducks. Daily bag and possession limits in the North Zone are 10 and 30, and in the Gulf Coast Zone, they are 8 and 24. The basic limits may include no more than 1 canvasback daily and 3 in possession and may not include sea ducks.

In addition to the basic duck limits, Alaska may select sea duck limits of 10 daily, 20 in possession, singly or in the aggregate, including no more than 6 each of either harlequin or long-tailed ducks. Sea ducks include scoters, common and king eiders, harlequin ducks, long-tailed ducks, and common and red-breasted mergansers.

Light Geese—A basic daily bag limit of 3 and a possession limit of 6.

Dark Geese—A basic daily bag limit of 4 and a possession limit of 8.

Dark-goose seasons are subject to the following exceptions:

1. In Units 5 and 6, the taking of Canada geese is permitted from September 28 through December 16. A special, permit-only Canada goose season may be offered on Middleton Island. No more than 10 permits can be issued. A mandatory goose identification class is required. Hunters must check in and check out. The bag limit is 1 daily and 1 in possession. The season will close if incidental harvest includes 5 dusky Canada geese. A dusky Canada goose is any dark-breasted Canada goose (Munsell 10 YR color value five or less) with a bill length between 40 and 50 millimeters.

2. In Unit 10 (except Unimak Island), the taking of Canada geese is prohibited.

3. In Unit 9(D) and the Unimak Island portion of Unit 10, the limits for dark geese are 6 daily and 12 in possession.

Brant—A daily bag limit of 2.

Common snipe—A daily bag limit of 8.

Sandhill cranes—Bag and possession limits of 2 and 4, respectively, in the Southeast, Gulf Coast, Kodiak, and Aleutian Zones, and Unit 17 in the Northern Zone. In the remainder of the Northern Zone (outside Unit 17), bag and possession limits of 3 and 6, respectively.

Tundra Swans—Open seasons for tundra swans may be selected subject to the following conditions:

1. All seasons are by registration permit only.

2. All season framework dates are September 1—October 31.

3. In Game Management Unit (GMU) 17, no more than 200 permits may be issued during this operational season. No more than 3 tundra swans may be authorized per permit with no more than 1 permit issued per hunter per season.

4. In Game Management Unit (GMU) 18, no more than 500 permits may be issued during the operational season. Up to 3 tundra swans may be authorized per permit. No more than 1 permit may be issued per hunter per season.

5. In GMU 22, no more than 300 permits may be issued during the operational season. Each permittee may be authorized to take up to 3 tundra swan per permit. No more than 1 permit may be issued per hunter per season.

6. In GMU 23, no more than 300 permits may be issued during the operational season. No more than 3 tundra swans may be authorized per permit with no more than 1 permit issued per hunter per season.

Hawaii

Outside Dates: Between October 1 and January 31.

Hunting Seasons: Not more than 65 days (75 under the alternative) for mourning doves.

Bag Limits: Not to exceed 15 (12 under the alternative) mourning doves.

Note: Mourning doves may be taken in Hawaii in accordance with shooting hours and other regulations set by the State of Hawaii, and subject to the applicable provisions of 50 CFR part 20.

Puerto Rico

Doves and Pigeons

Outside Dates: Between September 1 and January 15.

Hunting Seasons: Not more than 60 days.

Daily Bag and Possession Limits: Not to exceed 15 Zenaida, mourning, and white-winged doves in the aggregate, of which not more than 3 may be mourning doves. Not to exceed 5 scaly-naped pigeons.

Closed Areas: There is no open season on doves or pigeons in the following areas: Municipality of Culebra, Desecheo Island, Mona Island, El Verde Closure Area, and Cidra Municipality and adjacent areas.

Ducks, Coots, Moorhens, Gallinules, and Snipe

Outside Dates: Between October 1 and January 31.

Hunting Seasons: Not more than 55 days may be selected for hunting ducks, common moorhens, and common snipe. The season may be split into two segments.

Daily Bag Limits

Ducks—Not to exceed 6.

Common moorhens—Not to exceed 6.

Common snipe—Not to exceed 8.

Closed Seasons: The season is closed on the ruddy duck, white-cheeked pintail, West Indian whistling duck, fulvous whistling duck, and masked duck, which are protected by the Commonwealth of Puerto Rico. The season also is closed on the purple gallinule, American coot, and Caribbean coot.

Closed Areas: There is no open season on ducks, common moorhens, and common snipe in the Municipality of Culebra and on Desecheo Island.

Virgin Islands

Doves and Pigeons

Outside Dates: Between September 1 and January 15.

Hunting Seasons: Not more than 60 days for Zenaida doves.

Daily Bag and Possession Limits: Not to exceed 10 Zenaida doves.

Closed Seasons: No open season is prescribed for ground or quail doves, or pigeons in the Virgin Islands.

Closed Areas: There is no open season for migratory game birds on Ruth Cay (just south of St. Croix).

Local Names for Certain Birds: Zenaida dove, also known as mountain dove; bridled quail-dove, also known as Barbary dove or partridge; Common ground-dove, also known as stone dove, tobacco dove, rola, or tortolita; scaly-naped pigeon, also known as red-necked or scaled pigeon.

Ducks

Outside Dates: Between December 1 and January 31.

Hunting Seasons: Not more than 55 consecutive days.

Daily Bag Limits: Not to exceed 6.

Closed Seasons: The season is closed on the ruddy duck, white-cheeked pintail, West Indian whistling duck, fulvous whistling duck, and masked duck.

Special Falconry Regulations

Falconry is a permitted means of taking migratory game birds in any State meeting Federal falconry standards in 50 CFR 21.29(k). These States may select an extended season for taking migratory game birds in accordance with the following:

Extended Seasons: For all hunting methods combined, the combined length of the extended season, regular season, and any special or experimental seasons must not exceed 107 days for any species or group of species in a geographical area. Each extended season may be divided into a maximum of 3 segments.

Framework Dates: Seasons must fall between September 1 and March 10.

Daily Bag and Possession Limits: Falconry daily bag and possession limits for all permitted migratory game birds must not exceed 3 and 6 birds, respectively, singly or in the aggregate, during extended falconry seasons, any special or experimental seasons, and regular hunting seasons in all States, including those that do not select an extended falconry season.

Regular Seasons: General hunting regulations, including seasons and hunting hours, apply to falconry in each State listed in 50 CFR 21.29(k). Regular-season bag and possession limits do not apply to falconry. The falconry bag limit is not in addition to gun limits.

Area, Unit, and Zone Descriptions

Mourning and White-winged Doves

Alabama

South Zone—Baldwin, Barbour, Coffee, Covington, Dale, Escambia, Geneva, Henry, Houston, and Mobile Counties.

North Zone—Remainder of the State.

California

White-winged Dove Open Areas—Imperial, Riverside, and San Bernardino Counties.

Florida

Northwest Zone—The Counties of Bay, Calhoun, Escambia, Franklin, Gadsden, Gulf, Holmes, Jackson, Liberty, Okaloosa, Santa Rosa, Walton, Washington, Leon (except that portion north of U.S. 27 and east of State Road 155), Jefferson (south of U.S. 27, west of State Road 59 and north of U.S. 98), and Wakulla (except that portion south of U.S. 98 and east of the St. Marks River).

South Zone—Remainder of State.

Georgia

Northern Zone—That portion of the State lying north of a line running west to east along U.S. Highway 280 from Columbus to Wilcox County, thence southward along the western border of Wilcox County; thence east along the southern border of Wilcox County to the Ocmulgee River, thence north along the Ocmulgee River to Highway 280, thence east along Highway 280 to the Little Ocmulgee River; thence southward along the Little Ocmulgee River to the Ocmulgee River; thence southwesterly along the Ocmulgee River to the western border of Jeff Davis County; thence south along the western border of Jeff Davis County; thence east along the southern border of Jeff Davis and Appling Counties; thence north along the eastern border of Appling County, to the Altamaha River; thence east to the eastern border of Tattnall County; thence north along the eastern border of Tattnall County; thence north along the western border of Evans to Candler County; thence east along the northern border of Evans County to U.S. Highway 301; thence northeast along U.S. Highway 301 to the South Carolina line.

South Zone—Remainder of the State.

Louisiana

North Zone—That portion of the State north of Interstate Highway 10 from the Texas State line to Baton Rouge, Interstate Highway 12 from Baton Rouge to Slidell and Interstate Highway 10 from Slidell to the Mississippi State line.

South Zone—The remainder of the State.

Nevada

White-winged Dove Open Areas—Clark and Nye Counties.

Texas

North Zone—That portion of the State north of a line beginning at the International Bridge south of Fort Hancock; north along FM 1088 to TX 20; west along TX 20 to TX 148; north along TX 148 to I–10 at Fort Hancock; east along I–10 to I–20; northeast along I–20 to I–30 at Fort Worth; northeast along I–30 to the Texas-Arkansas State line.

South Zone—That portion of the State south and west of a line beginning at the International Bridge south of Del Rio, proceeding east on U.S. 90 to State Loop 1604 west of San Antonio; then south, east, and north along Loop 1604 to Interstate Highway 10 east of San Antonio; then east on I–10 to Orange, Texas.

Special White-winged Dove Area in the South Zone—That portion of the State south and west of a line beginning at the International Bridge south of Del Rio, proceeding east on U.S. 90 to Uvalde; south on U.S. 83 to TX 44; east along TX 44 to TX 16 at Freer; south along TX 16 to TX 285 at Hebbronville; east along TX 285 to FM 1017; southwest along FM 1017 to TX 186 at Linn; east along TX 186 to the Mansfield Channel at Port Mansfield; east along the Mansfield Channel to the Gulf of Mexico.

Area with additional restrictions—Cameron, Hidalgo, Starr, and Willacy Counties.

Central Zone—That portion of the State lying between the North and South Zones.

Band-Tailed Pigeons

California

North Zone—Alpine, Butte, Del Norte, Glenn, Humboldt, Lassen, Mendocino, Modoc, Plumas, Shasta, Sierra, Siskiyou, Tehama, and Trinity Counties.

South Zone—The remainder of the State.

New Mexico

North Zone—North of a line following U.S. 60 from the Arizona State line east to I–25 at Socorro and then south along I–25 from Socorro to the Texas State line.

South Zone—Remainder of the State.

Washington

Western Washington—The State of Washington excluding those portions lying east of the Pacific Crest Trail and east of the Big White Salmon River in Klickitat County.

Woodcock

New Jersey

North Zone—That portion of the State north of NJ 70.

South Zone—The remainder of the State.

Special September Canada Goose Seasons

Atlantic Flyway

Connecticut

North Zone—That portion of the State north of I–95.

South Zone—Remainder of the State.

Maryland

Eastern Unit—Anne Arundel, Calvert, Caroline, Cecil, Charles, Dorchester, Harford, Kent, Queen Anne's, St. Mary's, Somerset, Talbot, Wicomico, and Worcester Counties, and those portions of Baltimore, Howard, and Prince George's Counties east of I–95.

Western Unit—Allegany, Carroll, Frederick, Garrett, Montgomery, and Washington Counties, and those portions of Baltimore, Howard, and Prince George's Counties west of I–95.

Massachusetts

Western Zone—That portion of the State west of a line extending south from the Vermont border on I–91 to MA 9, west on MA 9 to MA 10, south on MA 10 to U.S. 202, south on U.S. 202 to the Connecticut border.

Central Zone—That portion of the State east of the Berkshire Zone and west of a line extending south from the New Hampshire border on I–95 to U.S. 1, south on U.S. 1 to I–93, south on I–93 to MA 3, south on MA 3 to U.S. 6, west on U.S. 6 to MA 28, west on MA 28 to I–195, west to the Rhode Island border; except the waters, and the lands 150 yards inland from the high-water mark, of the Assonet River upstream to the MA 24 bridge, and the Taunton River upstream to the Center St. Elm St. bridge will be in the Coastal Zone.

Coastal Zone—That portion of Massachusetts east and south of the Central Zone.

New York

Lake Champlain Zone—The U.S. portion of Lake Champlain and that area east and north of a line extending along NY 9B from the Canadian border to U.S. 9, south along U.S. 9 to NY 22 south of Keesville; south along NY 22 to the west shore of South Bay, along and around the shoreline of South Bay to NY 22 on the east shore of South Bay; southeast

along NY 22 to U.S. 4, northeast along U.S. 4 to the Vermont border.

Long Island Zone—That area consisting of Nassau County, Suffolk County, that area of Westchester County southeast of I–95, and their tidal waters.

Western Zone—That area west of a line extending from Lake Ontario east along the north shore of the Salmon River to I–81, and south along I–81 to the Pennsylvania border, except for the Montezuma Zone.

Montezuma Zone—Those portions of Cayuga, Seneca, Ontario, Wayne, and Oswego Counties north of U.S. Route 20, east of NYS Route 14, south of NYS Route 104, and west of NYS Route 34.

Northeastern Zone—That area north of a line extending from Lake Ontario east along the north shore of the Salmon River to I–81, south along I–81 to NY 49, east along NY 49 to NY 365, east along NY 365 to NY 28, east along NY 28 to NY 29, east along NY 29 to I–87, north along I–87 to U.S. 9 (at Exit 20), north along U.S. 9 to NY 149, east along NY 149 to U.S. 4, north along U.S. 4 to the Vermont border, exclusive of the Lake Champlain Zone.

Southeastern Zone—The remaining portion of New York.

North Carolina

Northeast Hunt Unit—Counties of Bertie, Camden, Chowan, Currituck, Dare, Hyde, Pasquotank, Perquimans, Tyrrell, and Washington.

Vermont

Lake Champlain Zone: The U.S. portion of Lake Champlain and that area north and west of the line extending from the New York border along U.S. 4 to VT 22A at Fair Haven; VT 22A to U.S. 7 at Vergennes; U.S. 7 to the Canadian border.

Interior Zone: That portion of Vermont west of the Lake Champlain Zone and eastward of a line extending from the Massachusetts border at Interstate 91; north along Interstate 91 to U.S. 2; east along U.S. 2 to VT 102; north along VT 102 to VT 253; north along VT 253 to the Canadian border.

Connecticut River Zone: The remaining portion of Vermont east of the Interior Zone.

Mississippi Flyway

Illinois

Northeast Canada Goose Zone—Cook, Du Page, Grundy, Kane, Kankakee, Kendall, Lake, McHenry, and Will Counties.

North Zone: That portion of the State outside the Northeast Canada Goose Zone and north of a line extending east from the Iowa border along Illinois Highway 92 to Interstate Highway 280, east along I–280 to I–80, then east along I–80 to the Indiana border.

Central Zone: That portion of the State outside the Northeast Canada Goose Zone and south of the North Zone to a line extending east from the Missouri border along the Modoc Ferry route to Modoc Ferry Road, east along Modoc Ferry Road to Modoc Road, northeasterly along Modoc Road and St. Leo's Road to Illinois Highway 3, north along Illinois 3 to Illinois 159, north along Illinois 159 to Illinois 161, east along Illinois 161 to Illinois 4, north along Illinois 4 to Interstate Highway 70, east along I–70 to the Bond County line, north and east along the Bond County line to Fayette County, north and east along the Fayette County line to Effingham County, east and south along the Effingham County line to I–70, then east along I–70 to the Indiana border.

South Zone: The remainder of Illinois.

Iowa

North Zone: That portion of the State north of U.S. Highway 20.

South Zone: The remainder of Iowa.

Cedar Rapids/Iowa City Goose Zone. Includes portions of Linn and Johnson Counties bounded as follows: Beginning at the intersection of the west border of Linn County and Linn County Road E2W; thence south and east along County Road E2W to Highway 920; thence north along Highway 920 to County Road E16; thence east along County Road E16 to County Road W58; thence south along County Road W58 to County Road E34; thence east along County Road E34 to Highway 13; thence south along Highway 13 to Highway 30; thence east along Highway 30 to Highway 1; thence south along Highway 1 to Morse Road in Johnson County; thence east along Morse Road to Wapsi Avenue; thence south along Wapsi Avenue to Lower West Branch Road; thence west along Lower West Branch Road to Taft Avenue; thence south along Taft Avenue to County Road F62; thence west along County Road F62 to Kansas Avenue; thence north along Kansas Avenue to Black Diamond Road; thence west on Black Diamond Road to Jasper Avenue; thence north along Jasper Avenue to Rohert Road; thence west along Rohert Road to Ivy Avenue; thence north along Ivy Avenue to 340th Street; thence west along 340th Street to Half Moon Avenue; thence north along Half Moon Avenue to Highway 6; thence west along Highway 6 to Echo Avenue; thence north along Echo Avenue to 250th Street; thence east on 250th Street to Green Castle Avenue; thence north along Green Castle Avenue to County Road F12; thence west along County Road F12 to County Road W30; thence north along County Road W30 to Highway 151; thence north along the Linn-Benton County line to the point of beginning.

Des Moines Goose Zone. Includes those portions of Polk, Warren, Madison and Dallas Counties bounded as follows: Beginning at the intersection of Northwest 158th Avenue and County Road R38 in Polk County; thence south along R38 to Northwest 142nd Avenue; thence east along Northwest 142nd Avenue to Northeast 126th Avenue; thence east along Northeast 126th Avenue to Northeast 46th Street; thence south along Northeast 46th Street to Highway 931; thence east along Highway 931 to Northeast 80th Street; thence south along Northeast 80th Street to Southeast 6th Avenue; thence west along Southeast 6th Avenue to Highway 65; thence south and west along Highway 65 to Highway 69 in Warren County; thence south along Highway 69 to County Road G24; thence west along County Road G24 to Highway 28; thence southwest along Highway 28 to 43rd Avenue; thence north along 43rd Avenue to Ford Street; thence west along Ford Street to Filmore Street; thence west along Filmore Street to 10th Avenue; thence south along 10th Avenue to 155th Street in Madison County; thence west along 155th Street to Cumming Road; thence north along Cumming Road to Badger Creek Avenue; thence north along Badger Creek Avenue to County Road F90 in Dallas County; thence east along County Road F90 to County Road R22; thence north along County Road R22 to Highway 44; thence east along Highway 44 to County Road R30; thence north along County Road R30 to County Road F31; thence east along County Road F31 to Highway 17; thence north along Highway 17 to Highway 415 in Polk County; thence east along Highway 415 to Northwest 158th Avenue; thence east along Northwest 158th Avenue to the point of beginning.

Michigan

North Zone: The Upper Peninsula.

Middle Zone: That portion of the Lower Peninsula north of a line beginning at the Wisconsin border in Lake Michigan due west of the mouth of Stony Creek in Oceana County; then due east to, and easterly and southerly along the south shore of, Stony Creek to Scenic Drive, easterly and southerly along Scenic Drive to Stony Lake Road, easterly along Stony Lake and Garfield Roads to Michigan Highway 20, east along Michigan 20 to U.S. Highway 10 Business Route (BR) in the city of Midland, east along U.S. 10 BR to U.S.

10, east along U.S. 10 to Interstate Highway 75/U.S. Highway 23, north along I–75/U.S. 23 to the U.S. 23 exit at Standish, east along U.S. 23 to Shore Road in Arenac County, east along Shore Road to the tip of Point Lookout, then on a line directly east 10 miles into Saginaw Bay, and from that point on a line directly northeast to the Canada border.

South Zone: The remainder of Michigan.

Minnesota

Twin Cities Metropolitan Canada Goose Zone—

A. All of Hennepin and Ramsey Counties.

B. In Anoka County, all of Columbus Township lying south of County State Aid Highway (CSAH) 18, Anoka County; all of the cities of Ramsey, Andover, Anoka, Coon Rapids, Spring Lake Park, Fridley, Hilltop, Columbia Heights, Blaine, Lexington, Circle Pines, Lino Lakes, and Centerville; and all of the city of Ham Lake except that portion lying north of CSAH 18 and east of U.S. Highway 65.

C. That part of Carver County lying north and east of the following described line: Beginning at the northeast corner of San Francisco Township; thence west along the north boundary of San Francisco Township to the east boundary of Dahlgren Township; thence north along the east boundary of Dahlgren Township to U.S. Highway 212; thence west along U.S. Highway 212 to State Trunk Highway (STH) 284; thence north on STH 284 to County State Aid Highway (CSAH) 10; thence north and west on CSAH 10 to CSAH 30; thence north and west on CSAH 30 to STH 25; thence east and north on STH 25 to CSAH 10; thence north on CSAH 10 to the Carver County line.

D. In Scott County, all of the cities of Shakopee, Savage, Prior Lake, and Jordan, and all of the Townships of Jackson, Louisville, St. Lawrence, Sand Creek, Spring Lake, and Credit River.

E. In Dakota County, all of the cities of Burnsville, Eagan, Mendota Heights, Mendota, Sunfish Lake, Inver Grove Heights, Apple Valley, Lakeville, Rosemount, Farmington, Hastings, Lilydale, West St. Paul, and South St. Paul, and all of the Township of Nininger.

F. That portion of Washington County lying south of the following described line: Beginning at County State Aid Highway (CSAH) 2 on the west boundary of the county; thence east on CSAH 2 to U.S. Highway 61; thence south on U.S. Highway 61 to State Trunk Highway (STH) 97; thence east on STH 97 to the intersection of STH 97 and STH 95; thence due east to the east boundary of the State.

Northwest Goose Zone—That portion of the State encompassed by a line extending east from the North Dakota border along U.S. Highway 2 to State Trunk Highway (STH) 32, north along STH 32 to STH 92, east along STH 92 to County State Aid Highway (CSAH) 2 in Polk County, north along CSAH 2 to CSAH 27 in Pennington County, north along CSAH 27 to STH 1, east along STH 1 to CSAH 28 in Pennington County, north along CSAH 28 to CSAH 54 in Marshall County, north along CSAH 54 to CSAH 9 in Roseau County, north along CSAH 9 to STH 11, west along STH 11 to STH 310, and north along STH 310 to the Manitoba border.

Southeast Goose Zone—That part of the State within the following described boundaries: beginning at the intersection of U.S. Highway 52 and the south boundary of the Twin Cities Metro Canada Goose Zone; thence along the U.S. Highway 52 to State Trunk Highway (STH) 57; thence along STH 57 to the municipal boundary of Kasson; thence along the municipal boundary of Kasson County State Aid Highway (CSAH) 13, Dodge County; thence along CSAH 13 to STH 30; thence along STH 30 to U.S. Highway 63; thence along U.S. Highway 63 to the south boundary of the State; thence along the south and east boundaries of the State to the south boundary of the Twin Cities Metro Canada Goose Zone; thence along said boundary to the point of beginning.

Five Goose Zone—That portion of the State not included in the Twin Cities Metropolitan Canada Goose Zone, the Northwest Goose Zone, or the Southeast Goose Zone.

West Zone—That portion of the State encompassed by a line beginning at the junction of State Trunk Highway (STH) 60 and the Iowa border, then north and east along STH 60 to U.S. Highway 71, north along U.S. 71 to Interstate Highway 94, then north and west along I–94 to the North Dakota border.

Tennessee

Middle Tennessee Zone—Those portions of Houston, Humphreys, Montgomery, Perry, and Wayne Counties east of State Highway 13; and Bedford, Cannon, Cheatham, Coffee, Davidson, Dickson, Franklin, Giles, Hickman, Lawrence, Lewis, Lincoln, Macon, Marshall, Maury, Moore, Robertson, Rutherford, Smith, Sumner, Trousdale, Williamson, and Wilson Counties.

East Tennessee Zone—Anderson, Bledsoe, Bradley, Blount, Campbell, Carter, Claiborne, Clay, Cocke, Cumberland, DeKalb, Fentress, Grainger, Greene, Grundy, Hamblen, Hamilton, Hancock, Hawkins, Jackson, Jefferson, Johnson, Knox, Loudon, Marion, McMinn, Meigs, Monroe, Morgan, Overton, Pickett, Polk, Putnam, Rhea, Roane, Scott, Sequatchie, Sevier, Sullivan, Unicoi, Union, Van Buren, Warren, Washington, and White Counties.

Wisconsin

Early-Season Subzone A—That portion of the State encompassed by a line beginning at the intersection of U.S. Highway 141 and the Michigan border near Niagara, then south along U.S. 141 to State Highway 22, west and southwest along State 22 to U.S. 45, south along U.S. 45 to State 22, west and south along State 22 to State 110, south along State 110 to U.S. 10, south along U.S. 10 to State 49, south along State 49 to State 23, west along State 23 to State 73, south along State 73 to State 60, west along State 60 to State 23, south along State 23 to State 11, east along State 11 to State 78, then south along State 78 to the Illinois border.

Early-Season Subzone B—The remainder of the State.

Central Flyway

Kansas

September Canada Goose Kansas City/Topeka Unit—That part of Kansas bounded by a line from the Kansas-Missouri State line west on KS 68 to its junction with KS 33, then north on KS 33 to its junction with U.S. 56, then west on U.S. 56 to its junction with KS 31, then west-northwest on KS 31 to its junction with KS 99, then north on KS 99 to its junction with U.S. 24, then east on U.S. 24 to its junction with KS 63, then north on KS 63 to its junction with KS 16, then east on KS 16 to its junction with KS 116, then east on KS 116 to its junction with U.S. 59, then northeast on U.S. 59 to its junction with the Kansas-Missouri line, then south on the Kansas-Missouri line to its junction with KS 68.

September Canada Goose Wichita Unit—That part of Kansas bounded by a line from I–135 west on U.S. 50 to its junction with Burmac Road, then south on Burmac Road to its junction with 279 Street West (Sedgwick/Harvey County line), then south on 279 Street West to its junction with KS 96, then east on KS 96 to its junction with KS 296, then south on KS 296 to its junction with 247 Street West, then south on 247 Street West to its junction with U.S. 54, then west on U.S. 54 to its junction with 263 Street West, then south on 263 Street West to its junction with KS 49, then south on KS 49 to its junction with 90

Avenue North, then east on 90 Avenue North to its junction with KS 55, then east on KS 55 to its junction with KS 15, then east on KS 15 to its junction with U.S. 77, then north on U.S. 77 to its junction with Ohio Street, then north on Ohio to its junction with KS 254, then east on KS 254 to its junction with KS 196, then northwest on KS 196 to its junction with I–135, then north on I–135 to its junction with U.S. 50.

Nebraska

September Canada Goose Unit—That part of Nebraska bounded by a line from the Nebraska-Iowa State line west on U.S. Highway 30 to NE Highway 15, then south on NE Highway 15 to NE Highway 41, then east on NE Highway 41 to NE Highway 50, then north on NE Highway 50 to NE Highway 2, then east on NE Highway 2 to the Nebraska-Iowa State line.

South Dakota

September Ganada Goose North Unit—Clark, Codington, Day, Deuel, Grant, Hamlin, Marshall, and Roberts County.

September Canada Goose South Unit—Beadle, Brookings, Hanson, Kingsbury, Lake, Lincoln, McCook, Miner, Minnehaha, Moody, Sanborn, and Turner Counties.

Pacific Flyway

Idaho

East Zone—Bonneville, Caribou, Fremont, and Teton Counties.

Oregon

Northwest Zone—Benton, Clackamas, Clatsop, Columbia, Lane, Lincoln, Linn, Marion, Polk, Multnomah, Tillamook, Washington, and Yamhill Counties.

Southwest Zone—Coos, Curry, Douglas, Jackson, Josephine, and Klamath Counties.

East Zone—Baker, Gilliam, Malheur, Morrow, Sherman, Umatilla, Union, and Wasco Counties.

Washington

Area 1—Skagit, Island, and Snohomish Counties.

Area 2A (SW Quota Zone)—Clark County, except portions south of the Washougal River; Cowlitz, and Wahkiakum Counties.

Area 2B (SW Quota Zone)—Pacific and Grays Harbor Counties.

Area 3—All areas west of the Pacific Crest Trail and west of the Big White Salmon River that are not included in Areas 1, 2A, and 2B.

Area 4—Adams, Benton, Chelan, Douglas, Franklin, Grant, Kittitas, Lincoln, Okanogan, Spokane, and Walla Walla Counties.

Area 5—All areas east of the Pacific Crest Trail and east of the Big White Salmon River that are not included in Area 4.

Wyoming

Bear River Area—That portion of Lincoln County described in State regulations.

Salt River Area—That portion of Lincoln County described in State regulations.

Farson-Eden Area—Those portions of Sweetwater and Sublette Counties described in State regulations.

Teton Area—Those portions of Teton County described in State regulations.

Bridger Valley Area—The area described as the Bridger Valley Hunt Unit in State regulations.

Little Snake River—That portion of the Little Snake River drainage in Carbon County.

Ducks

Atlantic Flyway

New York

Lake Champlain Zone: The U.S. portion of Lake Champlain and that area east and north of a line extending along NY 9B from the Canadian border to U.S. 9, south along U.S. 9 to NY 22 south of Keesville; south along NY 22 to the west shore of South Bay, along and around the shoreline of South Bay to NY 22 on the east shore of South Bay; southeast along NY 22 to U.S. 4, northeast along U.S. 4 to the Vermont border.

Long Island Zone: That area consisting of Nassau County, Suffolk County, that area of Westchester County southeast of I–95, and their tidal waters.

Western Zone: That area west of a line extending from Lake Ontario east along the north shore of the Salmon River to I–81, and south along I–81 to the Pennsylvania border.

Northeastern Zone: That area north of a line extending from Lake Ontario east along the north shore of the Salmon River to I–81, south along I–81 to NY 49, east along NY 49 to NY 365, east along NY 365 to NY 28, east along NY 28 to NY 29, east along NY 29 to I–87, north along I–87 to U.S. 9 (at Exit 20), north along U.S. 9 to NY 149, east along NY 149 to U.S. 4, north along U.S. 4 to the Vermont border, exclusive of the Lake Champlain Zone.

Southeastern Zone: The remaining portion of New York.

Mississippi Flyway

Indiana

North Zone: That portion of the State north of a line extending east from the Illinois border along State Road 18 to U.S. Highway 31, north along U.S. 31 to U.S. 24, east along U.S. 24 to Huntington, then southeast along U.S. 224 to the Ohio border.

Ohio River Zone: That portion of the State south of a line extending east from the Illinois border along Interstate Highway 64 to New Albany, east along State Road 62 to State 56, east along State 56 to Vevay, east and north on State 156 along the Ohio River to North Landing, north along State 56 to U.S. Highway 50, then northeast along U.S. 50 to the Ohio border.

South Zone: That portion of the State between the North and Ohio River Zone boundaries.

Iowa

North Zone: That portion of the State north of a line extending east from the Nebraska border along State Highway 175 to State 37, southeast along State 37 to U.S. Highway 59, south along U.S. 59 to Interstate Highway 80, then east along I–80 to the Illinois border.

South Zone: The remainder of Iowa.

Central Flyway

Colorado

Special Teal Season Area: Lake and Chaffee Counties and that portion of the State east of Interstate Highway 25.

Kansas

High Plains Zone: That portion of the State west of U.S. 283.

Low Plains Early Zone: That portion of the State east of the High Plains Zone and west of a line extending south from the Nebraska border along KS 28 to U.S. 36, east along U.S. 36 to KS 199, south along KS 199 to Republic County Road 563, south along Republic County Road 563 to KS 148, east along KS 148 to Republic County Road 138, south along Republic County Road 138 to Cloud County Road 765, south along Cloud County Road 765 to KS 9, west along KS 9 to U.S. 24, west along U.S. 24 to U.S. 281, north along U.S. 281 to U.S. 36, west along U.S. 36 to U.S. 183, south along U.S. 183 to U.S. 24, west along U.S. 24 to KS 18, southeast along KS 18 to U.S. 183, south along U.S. 183 to KS 4, east along KS 4 to I–135, south along I–135 to KS 61, southwest along KS 61 to KS 96, northwest on KS 96 to U.S. 56, west along U.S. 56 to U.S. 281, south along U.S. 281 to U.S. 54, then west along U.S. 54 to U.S. 283.

Low Plains Late Zone: The remainder of Kansas.

Nebraska

Special Teal Season Area: That portion of the State south of a line beginning at the Wyoming State line; east along U.S. 26 to Nebraska Highway

L62A; east to U.S. 385; south to U.S. 26; east to NE 92; east along NE 92 to NE 61; south along NE 61 to U.S. 30; east along U.S. 30 to the Iowa border.

New Mexico (Central Flyway Portion)

North Zone: That portion of the State north of I–40 and U.S. 54.

South Zone: The remainder of New Mexico.

Pacific Flyway

California

Northeastern Zone: In that portion of California lying east and north of a line beginning at the intersection of the Klamath River with the California-Oregon line; south and west along the Klamath River to the mouth of Shovel Creek; along Shovel Creek to its intersection with Forest Service Road 46N05 at Burnt Camp; west to its junction with Forest Service Road 46N10; south and east to its Junction with County Road 7K007; south and west to its junction with Forest Service Road 45N22; south and west to its junction with Highway 97 and Grass Lake Summit; south along to its junction with Interstate 5 at the town of Weed; south to its junction with Highway 89; east and south along Highway 89 to Main Street Greenville; north and east to its junction with North Valley Road; south to its junction of Diamond Mountain Road; north and east to its junction with North Arm Road; south and west to the junction of North Valley Road; south to the junction with Arlington Road (A22); west to the junction of Highway 89; south and west to the junction of Highway 70; east on Highway 70 to Highway 395; south and east on Highway 395 to the point of intersection with the California-Nevada State line; north along the California-Nevada State line to the junction of the California-Nevada-Oregon State lines west along the California-Oregon State line to the point of origin.

Colorado River Zone: Those portions of San Bernardino, Riverside, and Imperial Counties east of a line extending from the Nevada border south along U.S. 95 to Vidal Junction; south on a road known as "Aqueduct Road" in San Bernardino County through the town of Rice to the San Bernardino-Riverside County line; south on a road known in Riverside County as the "Desert Center to Rice Road" to the town of Desert Center; east 31 miles on I–10 to the Wiley Well Road; south on this road to Wiley Well; southeast along the Army-Milpitas Road to the Blythe, Brawley, Davis Lake intersections; south on the Blythe-Brawley paved road to the Ogilby and Tumco Mine Road; south on this road to U.S. 80; east 7 miles on U.S. 80 to the Andrade-Algodones Road; south on this paved road to the Mexican border at Algodones, Mexico.

Southern Zone: That portion of southern California (but excluding the Colorado River Zone) south and east of a line extending from the Pacific Ocean east along the Santa Maria River to CA 166 near the City of Santa Maria; east on CA 166 to CA 99; south on CA 99 to the crest of the Tehachapi Mountains at Tejon Pass; east and north along the crest of the Tehachapi Mountains to CA 178 at Walker Pass; east on CA 178 to U.S. 395 at the town of Inyokern; south on U.S. 395 to CA 58; east on CA 58 to I–15; east on I–15 to CA 127; north on CA 127 to the Nevada border.

Southern San Joaquin Valley Temporary Zone: All of Kings and Tulare Counties and that portion of Kern County north of the Southern Zone.

Balance-of-the-State Zone: The remainder of California not included in the Northeastern, Southern, and Colorado River Zones, and the Southern San Joaquin Valley Temporary Zone.

Canada Geese

Michigan

MVP Zone: The MVP Zone consists of an area north and west of the point beginning at the southwest corner of Branch county, north continuing along the western border of Branch and Calhoun counties to the northwest corner of Calhoun county, then easterly to the southwest corner of Eaton county, then northerly to the southern border of Ionia County, then easterly to the southwest corner of Clinton County, then northerly along the western border of Clinton County continuing northerly along the county border of Gratiot and Montcalm Counties to the southern border of Isabella County, then easterly to the southwest corner of Midland County, then northerly along the west Midland County border to Highway M–20, then easterly to U.S. Highway 10, then easterly to U.S. Interstate 75 / U.S. Highway 23, then northerly along I–75 / U.S. 23 to the U.S. 23 exit at Standish, then easterly on U.S. 23 to the centerline of the Au Gres River, then southerly along the centerline of the Au Gres River to Saginaw Bay, then on a line directly east 10 miles into Saginaw Bay, and from that point on a line directly northeast to the Canadian border.

SJBP Zone is the rest of the State, that area south and east of the boundary described above.

Sandhill Cranes

Central Flyway

Colorado

The Central Flyway portion of the State except the San Luis Valley (Alamosa, Conejos, Costilla, Hinsdale, Mineral, Rio Grande, and Saguache Counties east of the Continental Divide) and North Park (Jackson County).

Kansas

That portion of the State west of a line beginning at the Oklahoma border, north on I–35 to Wichita, north on I–135 to Salina, and north on U.S. 81 to the Nebraska border.

New Mexico

Regular-Season Open Area—Chaves, Curry, De Baca, Eddy, Lea, Quay, and Roosevelt Counties.

Middle Rio Grande Valley Area—The Central Flyway portion of New Mexico in Socorro and Valencia Counties.

Estancia Valley Area—Those portions of Santa Fe, Torrance and Bernalillo Counties within an area bounded on the west by New Mexico Highway 55 beginning at Mountainair north to NM 337, north to NM 14, north to I–25; on the north by I–25 east to U.S. 285; on the east by U.S. 285 south to U.S. 60; and on the south by U.S. 60 from U.S. 285 west to NM 55 in Mountainair.

Southwest Zone—Sierra, Luna, Dona Ana Counties, and those portions of Grant and Hidalgo Counties south of I–10.

Oklahoma

That portion of the State west of I–35.

Texas

Area 1—That portion of the State west of a line beginning at the International Bridge at Laredo, north along I–35 to the Oklahoma border.

Area 2—That portion of the State east and south of a line from the International Bridge at Laredo northerly along I–35 to U.S. 290; southeasterly along U.S. 290 to I–45; south and east on I–45 to State Highway 87, south and east on TX 87 to the channel in the Gulf of Mexico between Galveston and Point Bolivar; EXCEPT: That portion of the State lying within the area bounded by the Corpus Christi Bay Causeway on U.S. 181 at Portland; north and west on U.S. 181 to U.S. 77 at Sinton; north and east along U.S. 77 to U.S. 87 at Victoria; east and south along U.S. 87 to Texas Highway 35; north and east on TX 35 to the west end of the Lavaca Bay Bridge; then south and east along the west shoreline of Lavaca Bay and Matagorda Island to the Gulf of Mexico; then south and west along the shoreline of the Gulf

of Mexico to the Corpus Christi Bay Causeway.

North Dakota

Area 1—That portion of the State west of U.S. 281.

Area 2—That portion of the State east of U.S. 281.

South Dakota

That portion of the State west of U.S. 281.

Montana

The Central Flyway portion of the State except that area south of I–90 and west of the Bighorn River.

Wyoming

Regular-Season Open Area—Campbell, Converse, Crook, Goshen, Laramie, Niobrara, Platte, and Weston Counties.

Riverton-Boysen Unit—Portions of Fremont County.

Park and Big Horn County Unit—Portions of Park and Big Horn Counties.

Pacific Flyway

Arizona

Special-Season Area—Game Management Units 30A, 30B, 31, and 32.

Montana

Special-Season Area—See State regulations.

Utah

Special-Season Area—Rich, Cache, and Unitah Counties and that portion of Box Elder County beginning on the Utah-Idaho State line at the Box Elder-Cache County line; west on the State line to the Pocatello Valley County Road; south on the Pocatello Valley County Road to I–15; southeast on I–15 to SR–83; south on SR–83 to Lamp Junction; west and south on the Promontory Point County Road to the tip of Promontory Point; south from Promontory Point to the Box Elder-Weber County line; east on the Box Elder-Weber County line to the Box Elder-Cache County line; north on the Box Elder-Cache County line to the Utah-Idaho State line.

Wyoming

Bear River Area—That portion of Lincoln County described in State regulations.

Salt River Area—That portion of Lincoln County described in State regulations.

Farson-Eden Area—Those portions of Sweetwater and Sublette Counties described in State regulations.

All Migratory Game Birds in Alaska

North Zone—State Game Management Units 11–13 and 17–26.

Gulf Coast Zone—State Game Management Units 5–7, 9, 14–16, and 10 (Unimak Island only).

Southeast Zone—State Game Management Units 1–4.

Pribilof and Aleutian Islands Zone—State Game Management Unit 10 (except Unimak Island).

Kodiak Zone—State Game Management Unit 8.

All Migratory Game Birds in the Virgin Islands

Ruth Cay Closure Area—The island of Ruth Cay, just south of St. Croix.

All Migratory Game Birds in Puerto Rico

Municipality of Culebra Closure Area—All of the municipality of Culebra.

Desecheo Island Closure Area—All of Desecheo Island.

Mona Island Closure Area—All of Mona Island.

El Verde Closure Area—Those areas of the municipalities of Rio Grande and Loiza delineated as follows: (1) All lands between Routes 956 on the west and 186 on the east, from Route 3 on the north to the juncture of Routes 956 and 186 (Km 13.2) in the south; (2) all lands between Routes 186 and 966 from the juncture of 186 and 966 on the north, to the Caribbean National Forest Boundary on the south; (3) all lands lying west of Route 186 for 1 kilometer from the juncture of Routes 186 and 956 south to Km 6 on Route 186; (4) all lands within Km 14 and Km 6 on the west and the Caribbean National Forest Boundary on the east; and (5) all lands within the Caribbean National Forest Boundary whether private or public.

Cidra Municipality and adjacent areas—All of Cidra Municipality and portions of Aguas Buenas, Caguas, Cayey, and Comerio Municipalities as encompassed within the following boundary: beginning on Highway 172 as it leaves the municipality of Cidra on the west edge, north to Highway 156, east on Highway 156 to Highway 1, south on Highway 1 to Highway 765, south on Highway 765 to Highway 763, south on Highway 763 to the Rio Guavate, west along Rio Guavate to Highway 1, southwest on Highway 1 to Highway 14, west on Highway 14 to Highway 729, north on Highway 729 to Cidra Municipality boundary to the point of the beginning.

[FR Doc. 04–19709 Filed 8–27–04; 8:45 am]

BILLING CODE 4310–55–P

Federal Register

Monday,
August 30, 2004

Part III

The President

Federal Register
Vol. 69, No. 167
Monday, August 30, 2004

Presidential Documents

Title 3—

The President

Proclamation 7806 of August 26, 2004

Women's Equality Day, 2004

By the President of the United States of America

A Proclamation

On Women's Equality Day, we recognize the hard work and perseverance of those who helped secure women's suffrage in the United States. With the ratification of the 19th Amendment to the Constitution in 1920, American women gained one of the most cherished rights and fundamental responsibilities of citizenship: the right to vote.

The struggle for women's suffrage in America dates back to the founding of our country. The movement began in earnest at the Seneca Falls Convention in 1848, when women drafted a Declaration of Sentiments proclaiming they had the same rights as men. In 1916, Jeannette Rankin of Montana became the first American woman elected to the United States House of Representatives, despite the fact that her fellow women would not be able to vote nationally for 4 more years. These women and many more like them worked to ensure that future generations of women could realize the promise of America.

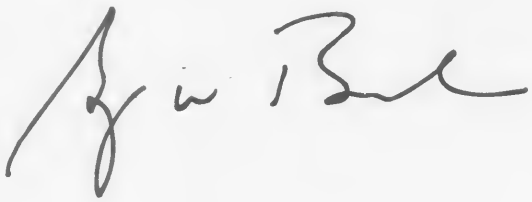
Today, American women are leaders in business, government, law, science, medicine, the arts, education, and many other fields. Women-owned businesses account for nearly half of all privately held firms and are opening at twice the rate of male-owned businesses. Through vision, determination, and a strong work ethic, remarkable American women have broadened opportunities for themselves and women around the world.

The full participation of women and the protection of their rights as citizens are essential for freedom and democracy to flourish. In Afghanistan, women helped draft their country's new constitution in January 2004, which guarantees free elections and full participation by women. These women are eager to exercise their rights and are registering to vote in great numbers; about 40 percent of those registered to vote in the October Afghan Presidential elections are women. In Iraq, women are members of the new interim Iraqi government and the recently established National Council. They also participated in drafting the Transitional Administrative Law, which prohibits discrimination on the basis of gender, ethnicity, or religion and requires that 25 percent of the new legislature be women. In the face of great challenges, Iraqi women are building a better nation for themselves and their families.

As we look to the future, we celebrate the extraordinary accomplishments of women in America and throughout the world and renew our commitment to equality for all women, both at home and abroad.

NOW, THEREFORE, I, GEORGE W. BUSH, President of the United States of America, by virtue of the authority vested in me by the Constitution and laws of the United States, do hereby proclaim August 26, 2004, as Women's Equality Day. I call upon the people of the United States to observe this day with appropriate programs and activities.

IN WITNESS WHEREOF, I have hereunto set my hand this twenty-sixth day of August, in the year of our Lord two thousand four, and of the Independence of the United States of America the two hundred and twenty-ninth.



[FR Doc. 04–19908
Filed 8–27–04; 11:31 am]
Billing code 3195–01–P

Presidential Documents

Executive Order 13352 of August 26, 2004

Facilitation of Cooperative Conservation

By the authority vested in me as President by the Constitution and the laws of the United States of America, it is hereby ordered as follows:

Section 1. *Purpose.* The purpose of this order is to ensure that the Departments of the Interior, Agriculture, Commerce, and Defense and the Environmental Protection Agency implement laws relating to the environment and natural resources in a manner that promotes cooperative conservation, with an emphasis on appropriate inclusion of local participation in Federal decisionmaking, in accordance with their respective agency missions, policies, and regulations.

Sec. 2. *Definition.* As used in this order, the term "cooperative conservation" means actions that relate to use, enhancement, and enjoyment of natural resources, protection of the environment, or both, and that involve collaborative activity among Federal, State, local, and tribal governments, private for-profit and nonprofit institutions, other nongovernmental entities and individuals.

Sec. 3. *Federal Activities.* To carry out the purpose of this order, the Secretaries of the Interior, Agriculture, Commerce, and Defense and the Administrator of the Environmental Protection Agency shall, to the extent permitted by law and subject to the availability of appropriations and in coordination with each other as appropriate:

(a) carry out the programs, projects, and activities of the agency that they respectively head that implement laws relating to the environment and natural resources in a manner that:

(i) facilitates cooperative conservation;

(ii) takes appropriate account of and respects the interests of persons with ownership or other legally recognized interests in land and other natural resources;

(iii) properly accommodates local participation in Federal decisionmaking; and

(iv) provides that the programs, projects, and activities are consistent with protecting public health and safety;

(b) report annually to the Chairman of the Council on Environmental Quality on actions taken to implement this order; and

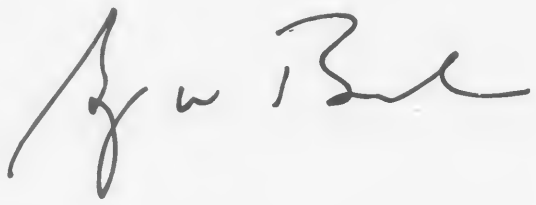
(c) provide funding to the Office of Environmental Quality Management Fund (42 U.S.C. 4375) for the Conference for which section 4 of this order provides.

Sec. 4. *White House Conference on Cooperative Conservation.* The Chairman of the Council on Environmental Quality shall, to the extent permitted by law and subject to the availability of appropriations:

(a) convene not later than 1 year after the date of this order, and thereafter at such times as the Chairman deems appropriate, a White House Conference on Cooperative Conservation (Conference) to facilitate the exchange of information and advice relating to (i) cooperative conservation and (ii) means for achievement of the purpose of this order; and

(b) ensure that the Conference obtains information in a manner that seeks from Conference participants their individual advice and does not involve collective judgment or consensus advice or deliberation.

Sec. 5. *General Provision.* This order is not intended to, and does not, create any right or benefit, substantive or procedural, enforceable at law or in equity by any party against the United States, its departments, agencies, instrumentalities or entities, its officers, employees or agents, or any other person.



THE WHITE HOUSE,
August 26, 2004.

[FR Doc. 04–19909
Filed 8–27–04; 11:31 am]
Billing code 3195–01–P

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Federal Register

Vol. 69, No. 167

Monday, August 30, 2004

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Federal Register/Code of Federal Regulations	
General Information, indexes and other finding aids	**202–741–6000**
Laws	**741–6000**
Presidential Documents	
Executive orders and proclamations	**741–6000**
The United States Government Manual	**741–6000**
Other Services	
Electronic and on-line services (voice)	**741–6020**
Privacy Act Compilation	**741–6064**
Public Laws Update Service (numbers, dates, etc.)	**741–6043**
TTY for the deaf-and-hard-of-hearing	**741–6086**

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FEDERAL REGISTER PAGES AND DATE, AUGUST

46095–46398 2
46399–46978 3
46979–47352 4
47353–47762 5
47763–48128 6
48129–48358 9
48359–48764 10
48765–49782 11
49783–50048 12
50049–50264 13
50265–50994 16
50995–51154 17
51155–51354 18
51355–51546 19
51547–51760 20
51761–51942 23
51943–52150 24
52151–52408 25
52409–52582 26
52583–52806 27
52807–52990 30

CFR PARTS AFFECTED DURING AUGUST

At the end of each month, the Office of the Federal Register publishes separately a List of CFR Sections Affected (LSA), which lists parts and sections affected by documents published since the revision date of each title.

3 CFR

Proclamations:
7805 51353
7806 52987

Executive Orders:
13222 (See Notice of August 6, 2004) 48763
13334 (See EO 13351) 50047
13351 50047
13352 52989

Administrative Orders:
Notices:
Notice of August 6, 2004 48763
Presidential Determinations:
No. 2004–40 of July 21, 2004 46399
No. 2004–41 of August 6, 2004 50049
No. 2004–42 of August 17, 2004 52807
No. 2004–42 of August 20, 2004 52809

5 CFR

531 47353
831 50265
842 50265

7 CFR

301 ..... 50995, 50996
319 52409
400 48652
402 48652
407 48652
457 ..... 48652, 52151, 52157, 52583
905 ..... 50265, 50269, 50275
916 50278
917 50278
925 50283
956 50286
989 50289
1434 52167
1435 48765
1724 52594
1726 52594

Proposed Rules:
304 49824
457 48166
927 50334
933 50337
987 50339
1775 48174
1777 48174
1778 48174
1780 48174
1942 48174
3570 48174
4274 48174

8 CFR

235 50051
274a 47763

9 CFR

78 52419
93 49783

Proposed Rules:
71 52451
93 51960
327 ..... 50086, 51194
381 51194

10 CFR

72 50053
430 50997

Proposed Rules:
50 46452
72 50089
431 47486

11 CFR

Proposed Rules:
100 52461

12 CFR

5 50293
32 51355
201 51001
226 50298
229 47290
563e 51155

Proposed Rules:
345 51611
607 47984
614 47984
615 47984
620 47984

14 CFR

23 47354
39 ..... 46979, 47763, 48129, 48131, 48133, 48135, 48138, 48359, 48361, 48363, 48365, 48366, 48368, 49957, 50056, 50299, 50445, 51002, 51358, 51547, 51549, 51753, 51761
71 ..... 47357, 48141, 48142, 48143, 48144, 48765, 48766, 51943, 51944, 51945, 51946, 51947, 51948, 51949, 52595, 52596, 52811
73 47358
91 ..... 51162, 51940
95 51950
97 ..... 48144, 51763
121 51940
125 51940
129 51940

Proposed Rules:
25 50240
39 ..... 46456, 47028, 47031,

Proposed Rules:
67 .....47830, 47831, 47832, 50351, 50357, 51405, 51406

45 CFR

Proposed Rules:
Ch. IX.....48435
2510.....50122
2520.....50122
2521.....50122
2522.....50122
2540.....50122
2550.....50122

46 CFR

71.....47378
114.....47378
115.....47378
125.....47378
126.....47378
167.....47378
169.....47378
175.....47378
176.....47378
388.....51769

Proposed Rules:
66.....49844
296.....51987

47 CFR

0.....46438
1 .....46438, 47788, 47790
2 .....46438, 48157, 52198
25 .....47790, 48157, 51586, 52198
64.....52444
73 .....46447, 47385, 47795, 49818, 51009, 51389, 51390, 51588
74.....48157
90 .....46438, 48157, 51959
95.....46438
101.....48157, 52198

Proposed Rules:
0.....52632
1.....48188, 51028
2 .....46462, 48192, 51028, 52632
11.....52843
20.....48440
25.....48192
63.....48188
64.....48188
69.....50141
73 .....46474, 46476, 47399, 48443, 50146, 51034, 51414, 51415, 51624, 52220, 52464
80.....48440
90.....46462
97.....51028
101.....52632

48 CFR

1437.....52607

Proposed Rules:
28.....51936
228.....48444
229.....48445
1835.....49845
1852.....49845

49 CFR

1.....51009
192.....48400
195.....48400
375.....47386
381.....51589
383.....51391
571 .....48805, 48818, 51188, 51393, 51399, 51598
573.....49819, 50077
574.....51399
577.....49819
579.....49822
586.....51393
591.....52070
592.....52070
594.....52070
1002.....52208

Proposed Rules:
171 .....47074, 49846, 50976
172 .....47074, 49846, 50976
173 .....47074, 49846, 50976
175.....47074
178.....47074, 49846
179.....49846
180.....49846
571.....47075

50 CFR

17 .....47212, 47330, 48115
20.....48163, 52970
100.....46999
229.....48407, 51774
402.....47732
635 .....47797, 51010, 51608
648.....47798, 51191
660 .....46448, 51012, 51400, 51609, 52448, 52449
679 .....46451, 47025, 47026, 51013, 51014, 51191, 52209, 52609

Proposed Rules:
17 .....47834, 48102, 48570, 50147, 51217, 51416, 51417
20.....51036, 52128
635.....49858
648.....52470, 52847

REMINDERS

The items in this list were editorially compiled as an aid to Federal Register users. Inclusion or exclusion from this list has no legal significance.

RULES GOING INTO EFFECT AUGUST 30, 2004

AGRICULTURE DEPARTMENT

Federal Crop Insurance Corporation

Crop insurance regulations:

Apples; published 8-27-04

Blueberries; published 8-25-04

General administrative regulations, group risk plan of insurance regulations for 2004 and succeeding crop years, and common crop insurance regulations; published 8-10-04

Pecans; published 8-25-04

COMMERCE DEPARTMENT

Census Bureau

Special services and studies:

Age Search Program; fee structure; published 7-30-04

DEFENSE DEPARTMENT

Engineers Corps

Danger zones and restricted areas:

Lake Michigan, Manitowoc and Sheboygan Counties, WI; Wisconsin Air National Guard military exercise area; published 7-30-04

Mobile, AL; Coast Guard Base Mobile Docks; published 7-29-04

ENVIRONMENTAL PROTECTION AGENCY

Air pollution control; new motor vehicles and engines:

Nonroad diesel engines and fuel; emission standards; published 6-29-04

Air quality implementation plans; approval and promulgation; various States; air quality planning purposes; designation of areas:

Missouri; published 6-30-04

Air quality implementation plans; approval and promulgation; various States:

Maryland; published 6-29-04

New Jersey; published 8-30-04

Pennsylvania; published 7-1-04

FEDERAL COMMUNICATIONS COMMISSION

Common carrier services:

27 MHz electromagnetic spectrum transferred from Government to non-government use; reallocation; reconsideration and clarification petitions; published 7-1-04

HEALTH AND HUMAN SERVICES DEPARTMENT

Food and Drug Administration

Animal drugs, feeds, and related products:

Cefpodoxime Proxetil tablets; published 8-30-04

Decoquinate; published 8-30-04

Spectinomycin Dihydrochloride oral solution; published 8-30-04

Color additives:

D&C Black No. 2; cosmetics coloring; published 7-28-04

Correction; published 8-25-04

HOMELAND SECURITY DEPARTMENT

Customs and Border Protection Bureau

Customs brokers:

Individual license examination dates; published 8-30-04

HOMELAND SECURITY DEPARTMENT

Coast Guard

Boating safety:

Personal flotation devices for children; Federal and State requirements for wearing aboard recreational vessels; published 7-30-04

Deepwater ports:

Regulations; revision Correction; published 8-30-04

INTERIOR DEPARTMENT

Fish and Wildlife Service

Migratory bird hunting:

Early season regulations (2004-2005); frameworks; published 8-30-04

NATIONAL CREDIT UNION ADMINISTRATION

Credit unions:

Community Development Revolving Loan Program; published 7-29-04

TREASURY DEPARTMENT

Internal Revenue Service

Income taxes:

Contingent payment debt instruments; tax treatment guidance for payments denominated in or determined by reference to a nonfunctional currency; published 8-30-04

TREASURY DEPARTMENT

Alcohol and Tobacco Tax and Trade Bureau

Alcohol; viticultural area designations:

Salado Creek, Stanislaus County, CA; published 6-29-04

San Bernabe and San Lucas, Monterey County, CA; published 6-29-04

COMMENTS DUE NEXT WEEK

AGRICULTURE DEPARTMENT

Agricultural Marketing Service

Almonds grown in—

California; comments due by 9-7-04; published 7-6-04 [FR 04-15278]

Cherries (tart) grown in—

Michigan et al.; comments due by 9-7-04; published 7-9-04 [FR 04-15584]

Cotton classing, testing and standards:

Classification services to growers; 2004 user fees; Open for comments until further notice; published 5-28-04 [FR 04-12138]

Pears (winter) grown in—

Oregon and Washington; comments due by 9-7-04; published 8-16-04 [FR 04-18615]

Prunes (dried) produced in—

California; comments due by 9-7-04; published 8-16-04 [FR 04-18611]

Raisins produced from grapes grown in—

California; comments due by 9-7-04; published 7-9-04 [FR 04-15583]

AGRICULTURE DEPARTMENT

Animal and Plant Health Inspection Service

Plant-related quarantine, domestic:

Japanese beetle; comments due by 9-7-04; published 7-6-04 [FR 04-15214]

AGRICULTURE DEPARTMENT

Forest Service

National Forest System lands:

Locatable minerals; notice of intent or plan of operations filing requirements; comments due by 9-7-04; published 7-9-04 [FR 04-15483]

AGRICULTURE DEPARTMENT

Rural Business-Cooperative Service

State Nonmetropolitan Median Household Income; definition clarification; comments due by 9-8-04; published 8-9-04 [FR 04-18087]

AGRICULTURE DEPARTMENT

Rural Housing Service

State Nonmetropolitan Median Household Income; definition clarification; comments due by 9-8-04; published 8-9-04 [FR 04-18087]

AGRICULTURE DEPARTMENT

Rural Utilities Service

State Nonmetropolitan Median Household Income; definition clarification; comments due by 9-8-04; published 8-9-04 [FR 04-18087]

COMMERCE DEPARTMENT

National Oceanic and Atmospheric Administration

Fishery conservation and management:

Alaska; fisheries of Exclusive Economic Zone—

Gulf of Alaska and Bering Sea and Aleutian Islands groundfish; comments due by 9-10-04; published 7-27-04 [FR 04-16957]

Northeastern United States fisheries—

Atlantic sea scallop; comments due by 9-10-04; published 8-26-04 [FR 04-19474]

West Coast States and Western Pacific fisheries—

American Samoa; pelagic longline fishery; limited entry; comments due by 9-7-04; published 7-22-04 [FR 04-16587]

West Coast salmon; comments due by 9-7-04; published 8-20-04 [FR 04-19166]

West Coast salmon; comments due by 9-10-04; published 8-26-04 [FR 04-19558]

West Coast salmon; comments due by 9-10-04; published 8-26-04 [FR 04-19557]

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/public_laws/public_laws.html.*

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H.R. 4842/P.L. 108–302

United States-Morocco Free Trade Agreement Implementation Act (Aug. 17, 2004; 118 Stat. 1103)

Last List August 12, 2004

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[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, 2003, through January 1, 2004. The CFR volume issued as of January 1, 2002 should be retained.

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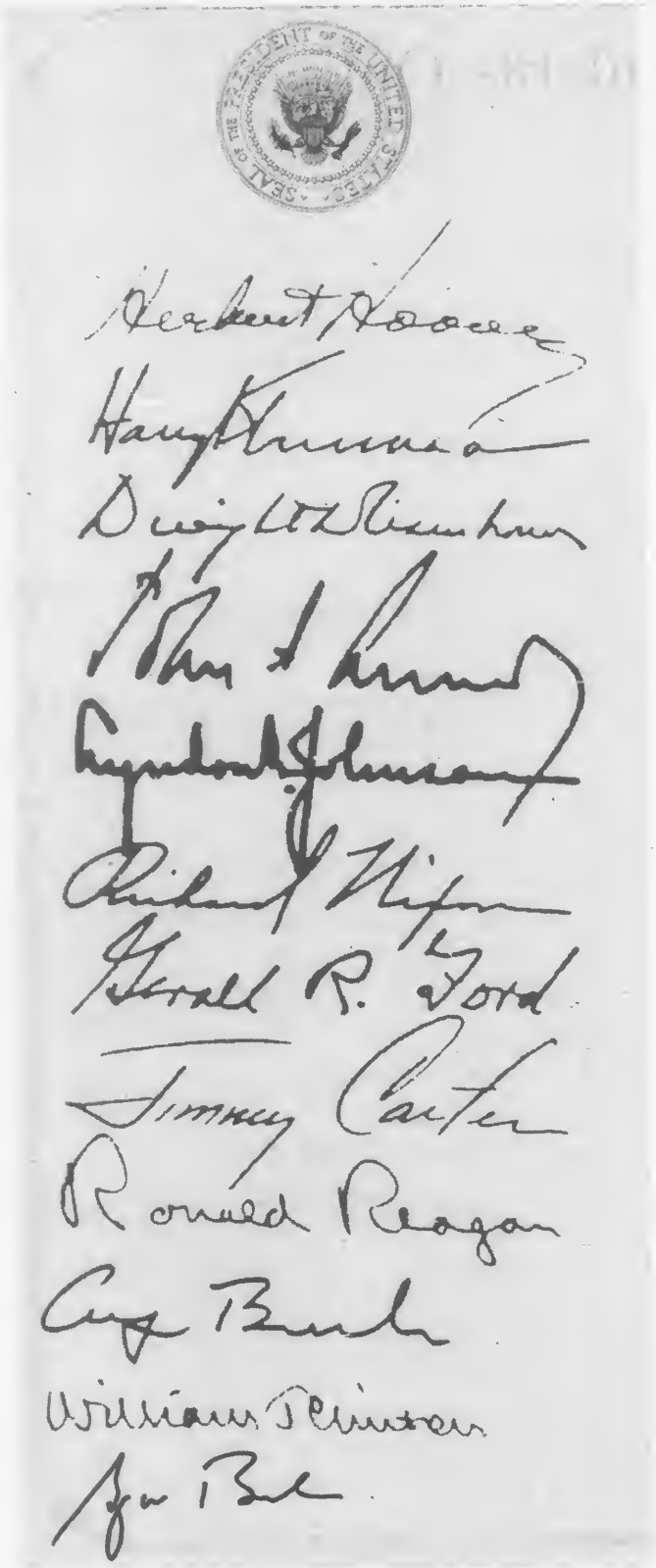

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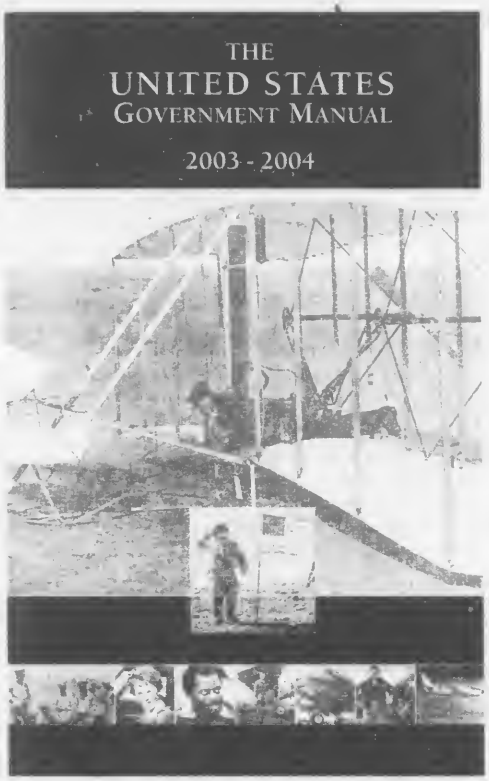

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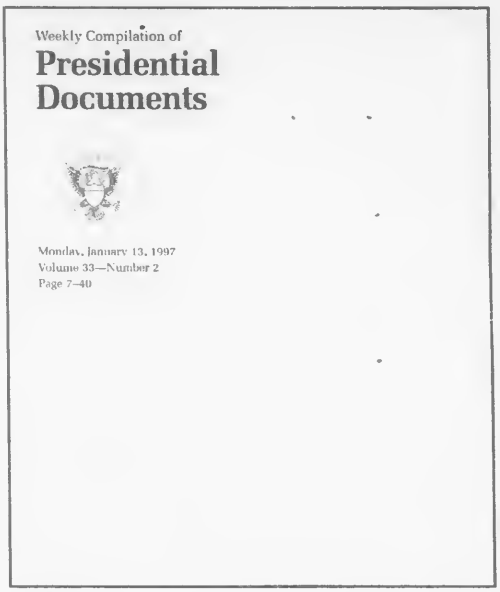

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