Federal Register

7–14–06 Friday
Vol. 71 No. 135 July 14, 2006

United States Government Printing Office
SUPERINTENDENT OF DOCUMENTS
Washington, DC 20402

OFFICIAL BUSINESS
Penalty for Private Use, $300

PERIODICALS
Postage and Fees Paid
U.S. Government Printing Office
(ISSN 0097-6326)

Federal Register

7–14–06 Friday
Vol. 71 No. 135 July 14, 2006

Pages 40003–40382

The **FEDERAL REGISTER** (ISSN 0097–6326) is published daily, Monday through Friday, except official holidays, by the Office of the Federal Register, National Archives and Records Administration, Washington, DC 20408, under the Federal Register Act (44 U.S.C. Ch. 15) and the regulations of the Administrative Committee of the Federal Register (1 CFR Ch. I). The Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402 is the exclusive distributor of the official edition. Periodicals postage is paid at Washington, DC.

The **FEDERAL REGISTER** provides a uniform system for making available to the public regulations and legal notices issued by Federal agencies. These include Presidential proclamations and Executive Orders, Federal agency documents having general applicability and legal effect, documents required to be published by act of Congress, and other Federal agency documents of public interest.

Documents are on file for public inspection in the Office of the Federal Register the day before they are published, unless the issuing agency requests earlier filing. For a list of documents currently on file for public inspection, see *www.archives.gov*.

The seal of the National Archives and Records Administration authenticates the Federal Register as the official serial publication established under the Federal Register Act. Under 44 U.S.C. 1507, the contents of the **Federal Register** shall be judicially noticed.

The **Federal Register** is published in paper and on 24x microfiche. It is also available online at no charge as one of the databases on GPO Access, a service of the U.S. Government Printing Office.

The online edition of the **Federal Register** *www.gpoaccess.gov/nara*, available through GPO Access, is issued under the authority of the Administrative Committee of the Federal Register as the official legal equivalent of the paper and microfiche editions (44 U.S.C. 4101 and 1 CFR 5.10). It is updated by 6 a.m. each day the **Federal Register** is published and includes both text and graphics from Volume 59, Number 1 (January 2, 1994) forward.

For more information about GPO Access, contact the GPO Access User Support Team, call toll free 1-888-293-6498; DC area 202-512-1530; fax at 202-512-1262; or via e-mail at *gpoaccess@gpo.gov*. The Support Team is available between 7:00 a.m. and 9:00 p.m. Eastern Time, Monday–Friday, except official holidays.

The annual subscription price for the **Federal Register** paper edition is $749 plus postage, or $808, plus postage, for a combined **Federal Register, Federal Register** Index and List of CFR Sections Affected (LSA) subscription; the microfiche edition of the **Federal Register** including the **Federal Register** Index and LSA is $165, plus postage. Six month subscriptions are available for one-half the annual rate. The prevailing postal rates will be applied to orders according to the delivery method requested. The price of a single copy of the daily **Federal Register**, including postage, is based on the number of pages: $11 for an issue containing less than 200 pages; $22 for an issue containing 200 to 400 pages; and $33 for an issue containing more than 400 pages. Single issues of the microfiche edition may be purchased for $3 per copy, including postage. Remit check or money order, made payable to the Superintendent of Documents, or charge to your GPO Deposit Account, VISA, MasterCard, American Express, or Discover. Mail to: New Orders, Superintendent of Documents, P.O. Box 371954, Pittsburgh, PA 15250-7954; or call toll free 1-866-512-1800, DC area 202-512-1800; or go to the U.S. Government Online Bookstore site, see *bookstore.gpo.gov*.

There are no restrictions on the republication of material appearing in the **Federal Register**.

How To Cite This Publication: Use the volume number and the page number. Example: 71 FR 12345.

Postmaster: Send address changes to the Superintendent of Documents, Federal Register, U.S. Government Printing Office, Washington DC 20402, along with the entire mailing label from the last issue received.

Printed on recycled paper.

SUBSCRIPTIONS AND COPIES

PUBLIC	
Subscriptions:	
Paper or fiche	202–512–1800
Assistance with public subscriptions	202–512–1806
General online information	202–512–1530; 1–888–293–6498
Single copies/back copies:	
Paper or fiche	202–512–1800
Assistance with public single copies	1–866–512–1800 (Toll-Free)
FEDERAL AGENCIES	
Subscriptions:	
Paper or fiche	202–741–6005
Assistance with Federal agency subscriptions	202–741–6005

Contents

Federal Register
Vol. 71, No. 135
Friday, July 14, 2006

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.

5 CFR

Proposed Rules:

1630.....40034
1651.....40034
1653.....40034
1690.....40034

7 CFR

Proposed Rules:

457.....40194

10 CFR

110.....40003

14 CFR

91.....40003
121.....40003
125.....40003
135.....40003

19 CFR

Proposed Rules:

4.....40035
122.....40035

21 CFR

520.....40010

29 CFR

4022.....40011
4044.....40011

32 CFR

Proposed Rules:

310.....40282

33 CFR

100.....40012

40 CFR

52 (2 documents) 40014, 40023
63.....40316
81.....40023
260.....40254
261.....40254
262.....40254
264.....40254
265.....40254
266.....40254
267.....40254
268.....40254
270.....40254
271.....40254
273.....40254
279.....40254

Proposed Rules:

52.....40048
180.....40051

44 CFR

206.....40025

45 CFR

Proposed Rules:

1356.....40346

49 CFR

Proposed Rules:

571.....40057

50 CFR

648.....40027
679 (3 documents) 40028, 40029
680.....40030

Rules and Regulations

Federal Register
Vol. 71, No. 135
Friday, July 14, 2006

NUCLEAR REGULATORY COMMISSION

10 CFR Part 110

RIN 3150–AH88

Implementation of the Nuclear Export and Import Provisions of the Energy Policy Act of 2005; Correction

AGENCY: Nuclear Regulatory Commission.

ACTION: Final rule; Correction.

SUMMARY: This document corrects a final rule appearing in the **Federal Register** on April 20, 2006 (71 FR 20336), that implemented provisions of the Energy Policy Act of 2005. This action is necessary to correct typographical errors that appeared in the codified text of the final rule.

DATES: *Effective Date:* July 14, 2006.

FOR FURTHER INFORMATION CONTACT: Michael T. Lesar, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555. Telephone: 301–415–7163 or Toll-Free: 1–800–368–5642 or E-mail: *MTL@NRC.Gov.*

SUPPLEMENTARY INFORMATION: In 71 FR 20336, that appeared in the **Federal Register** on Thursday, April 20, 2006, the following corrections are made:

§ 110.42 [Corrected]

■ 1. On page 20339, in the second column, in the second line of § 110.42(a)(9)(i), add the words "with respect to" between the words "section," and "export" so the line reads "section, with respect to exports * * *."

■ 2. Also, on page 20339, in the second column, in the second line of § 110.42(a)(9)(i)(A), remove the word "tart" and add the word "target" in its place.

■ 3. Lastly, on page 20339, in the third column, in the first and second lines of § 110.42(a)(9)(ii)(A) remove the words "has supplied" and add the words "that supplies" in their place.

Dated at Rockville, Maryland, this 10th day of July, 2006.

For the Nuclear Regulatory Commission.

Michael T. Lesar,

Federal Register Liaison Officer.

[FR Doc. E6–11116 Filed 7–13–06; 8:45 am]

BILLING CODE 7590–01–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Parts 91, 121, 125, and 135

[Docket No. FAA–2006–25334; Amendment Nos. 91–292; 121–326; 125–51; and 135–106]

RIN 2120–AI76

Additional Types of Child Restraint Systems That May Be Furnished and Used on Aircraft

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule; request for comments.

SUMMARY: The Federal Aviation Administration (FAA) is amending certain operating regulations to allow passengers or aircraft operators to furnish and use more types of Child Restraint Systems (CRS) on aircraft. This rule will allow the use of CRSs that the FAA approves under the aviation standards of Technical Standard Order C–100b, Child Restraint Systems. In addition, the rule will allow the use of CRSs approved by the FAA under its certification regulations regarding the approval of materials, parts, processes, and appliances. Current rules allow passengers and aircraft operators to furnish and use CRSs that meet Federal Motor Vehicle Safety Standard No. 213 (FMVSS No. 213), or the standards of the United Nations, or that are approved by a foreign government. The intended effect of this regulation is to increase the number of CRS options that are available for use on aircraft, while maintaining safe standards for certification and approval. In addition, more CRS options may increase the voluntary use of CRSs on aircraft and, in turn, improve children's safety.

DATES: This final rule is effective August 14, 2006. You must submit your comments on or before August 14, 2006.

ADDRESSES: Address your comments to the Docket Management System, U.S. Department of Transportation, Room Plaza 401, 400 Seventh Street, SW., Washington, DC 20590–0001. You must identify the docket number FAA–2006–25334 at the beginning of your comments, and you should submit two copies of your comments.

You may also submit comments through the Internet to *http://dms.dot.gov.* You may review the public docket containing comments to these regulations in person in the Dockets Office between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The Dockets Office is on the plaza level of the NASSIF Building at the Department of Transportation at the above address. Also, you may review public dockets on the Internet at *http://dms.dot.gov.*

FOR FURTHER INFORMATION CONTACT: Nancy Lauck Claussen, Federal Aviation Administration, Flight Standards Service, Air Transportation Division (AFS–200), 800 Independence Avenue, SW., Washington, DC 20591; Telephone 202–267–8166, E-mail *nancy.l.claussen@faa.gov.*

SUPPLEMENTARY INFORMATION:

Comments Invited

The FAA is adopting this final rule without prior notice and public comment. The Regulatory Policies and Procedures of the Department of Transportation (DOT) (44 FR 1134; February 26, 1979), however, provide that, to the maximum extent possible, operating administrations for the DOT should provide an opportunity for public comment on regulations issued without prior notice. Therefore, we invite interested persons to participate in this rulemaking by submitting such written data, views, or arguments, as they may desire. We also invite comments relating to environmental, energy, federalism, or international trade impacts that might result from this amendment. Please include the regulatory docket or amendment number and send two copies to the address above. We will file all comments received, as well as a report summarizing each substantive public contact with FAA personnel on this rulemaking, in the public docket. The

docket is available for public inspection before and after the comment closing date.

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

The FAA will consider all comments received on or before the closing date for comments. We will consider late comments to the extent practicable. We may amend this final rule in light of the comments received.

Commenters who want the FAA to acknowledge receipt of their comments submitted in response to this final rule must include a preaddressed, stamped postcard with those comments on which the following statement is made: "Comments to Docket No. FAA–2006–25334." The postcard will be date-stamped by the FAA and mailed to the commenter.

Availability of Final Rule

You can get an electronic copy using the Internet by:

(1) Searching the Department of Transportation's electronic Docket Management System (DMS) Web page (*http://dms.dot.gov/search*);

(2) Visiting the FAA's Regulations and Policies web page at *http://www.faa.gov/regulations_policies/*; or

(3) Accessing the Government Printing Office's web page at *http://www.gpoaccess.gov/fr/index.html*.

You can also get a copy by sending a request to the Federal Aviation Administration, Office of Rulemaking, ARM–1, 800 Independence Avenue, SW., Washington, DC 20591, or by calling (202) 267–9680. Make sure to identify the docket number, notice number, or amendment number of this rulemaking.

Small Business Regulatory Enforcement Fairness Act

The Small Business Regulatory Enforcement Fairness Act (SBREFA) of 1996 requires FAA to comply with small entity requests for information or advice about compliance with statutes and regulations within its jurisdiction. Therefore, any small entity that has a question regarding this document may contact their local FAA official, or the person listed under **FOR FURTHER INFORMATION CONTACT**. You can find out more about SBRFA on the Internet at our site, *http://www.faa.gov/regulations_policies/rulemaking/sbre_act/*.

Authority for This Rulemaking

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

The FAA is issuing this rulemaking under the authority set forth in 49 U.S.C. 44701(a)(5). Under that section, the Administrator is charged with promoting safe flight of civil aircraft by, among other things, prescribing regulations that the Administrator finds necessary for safety in air commerce

Background

August 26, 2005 CRS Final Rule

On August 26, 2005, the FAA published a final rule that amended its operating regulations to allow the use of CRSs that are approved by the FAA through Type Certificate (TC), Supplemental Type Certificate (STC), or Technical Standard Order (TSO) (70 FR 50902). The August 26, 2005 final rule allows an operator to provide these CRSs. It does not allow passengers to furnish and use a CRS approved through TC, STC, or TSO. This is in contrast to CRSs that meet FMVSS No. 213 or the standards of the United Nations, or are approved by a foreign government, which passengers may furnish and use on aircraft.

Comments on the August 26, 2005 CRS Final Rule

The FAA received 16 comments on the August 26, 2005 final rule. Commenters included individuals, a CRS manufacturer, and the American Academy of Pediatrics (AAP). The overwhelming majority of commenters requested that the FAA amend the August 26, 2005 final rule to allow passengers, in addition to aircraft operators, to furnish and use CRSs approved by the FAA. Many individuals stated that passengers should be able to obtain and use the AmSafe CAReS CRS, which received an STC from the FAA on April 15, 2005 and was referenced in the final rule.

In the August 26, 2005 rule the FAA stated that we may amend the final rule in light of the comments received. After reviewing those comments, the FAA has decided to amend its operating rules to allow both passengers and aircraft operators to furnish and use CRSs that the FAA has approved under § 21.305(d) and TSO C–100b. This is similar to provisions in the current rules that allow passengers and aircraft operators to furnish and use CRSs that meet FMVSS No. 213 or the standards of the United Nations, or are approved by a foreign government. Because TCs and STCs are aircraft-specific, the FAA has determined it is very unlikely a manufacturer would use the STC process if it wanted to allow CRSs to be widely available to the public.

It could be confusing to passengers if they were allowed to furnish CRSs approved by STC since the approval would only be for specific aircraft. For example, if passengers furnished CRSs approved by STC, they might be able to use them on one leg of a trip, but if they were on a different type aircraft for another leg of the trip, they would not be able to use the CRS unless it had been tested and approved for use on the second aircraft. Passengers could not furnish CRSs approved by TC since such CRSs are integrated into the aircraft design.

AAP supported our August 26, 2005 modification to the child restraint rule and made three recommendations. First, it urged us to continue to emphasize flight attendant training regarding the use of CRSs. The FAA regulations and associated guidance, such as Advisory Circular 120–87, *Use of Child Restraint Systems on Aircraft* (*http://www.airweb.faa.gov/Regulatory_and_Guidance_Library/rgAdvisoryCircular.nsf*), continue to address flight attendant training in this area and other areas of cabin safety. Overall, the operator has the responsibility to ensure the proper use of CRSs.

Second, AAP suggested that the FAA establish a unified process to allow FAA approval of a CRS for use on all seats and aircraft in addition to the FAA's STC process, which is tied to specific aircraft. The FAA's TSO process will allow manufacturers, or others, to develop CRSs that meet the standards of the TSO and obtain FAA approval for use on a wide variety of aircraft. Likewise, manufacturers, or others, may seek FAA approval of a CRS through § 21.305(d) of the regulations. In either case, aircraft operators, passengers, and certificate holders will be able to furnish and use the CRSs on an aircraft without additional FAA installation approval. This should encourage the development and use of new types of CRSs.

Third, the AAP recommended use of an appropriate size anthropomorphic test dummy (ATD) to evaluate the safety and effectiveness of a proposed CRS device. AAP stated that testing should include the range of flight conditions including turbulence. TSO C–100b

incorporates testing that is specific to the flight environment. The TSO also requires that the CRS and its integral restraints be designed to be compatible with classification standards developed by the AAP. In addition, the TSO requires that one or more ATD representing the child categories for which the CRS is intended for use be used to simulate the child-occupant in the dynamic testing required by the TSO. TSO C–100b is available on our website at (*http://www.airweb.faa.gov/Regulatory_and_Guidance_Library/rgTSO.nsf/MainFrame?OpenFrameSet*). Likewise, FAA approvals of CRSs under § 21.305(d) will use TSO C–100b as a benchmark standard and require an equivalent level of safety.

Individuals criticized our August 26, 2005 rule, because the FAA did not require all airlines to install CRSs to protect children when it is known that carrying car seats on board aircraft is difficult for passengers. As stated in prior rulemakings, the FAA is not requiring airlines to install or provide CRSs. Use of CRSs on aircraft will continue to be voluntary for the reasons discussed in previous rulemakings. This amendment, however, should encourage the manufacture of portable, easy-to-use child restraint systems that can be purchased and used by passengers and aircraft operators. Another individual stated that the parents should have received prior notice and an opportunity to comment before the FAA issued the August 26, 2005 rule because the safety of children is a significant issue. Like the majority of the commenters, this individual stated that parents should have the option of purchasing and using a CRS approved through additional FAA certification processes. In response, the FAA is amending our operating rules to allow parents who purchase CRSs approved by the FAA under TSO C–100b or § 21.305(d) to actually secure their children in those CRSs during any phase of aircraft operation.

Purpose of Final Rule

Current §§ 91.107, 121.311, 125.211, and 135.128 allow passengers to furnish and use and aircraft operators to provide, CRSs that meet FMVSS No. 213, *Child restraint system* (49 CFR 571.213), or the standards of the United Nations, or are approved by a foreign government. Also, current regulations allow aircraft operators to provide CRSs that are approved by the FAA through a TC, STC, or TSO.

The FAA is using its regulatory authority to create a set of operating rules that can accommodate innovations in the development of CRS. Currently, if an operator wants to furnish CRSs for passenger use that are approved under § 21.305(d), the operator must petition the FAA for an exemption from our operating rules. Current rules do not allow the use of a CRS approved under § 21.305(d) on aircraft during ground movement, take off, and landing. This amendment will allow CRSs with unique and novel design features to be used on aircraft.

In addition, current rules do not allow passengers to furnish and use CRSs approved by the FAA under § 21.305(d) or TSO C–100b. If an operator wants to allow its passengers to furnish and use such CRSs, the operator needs to petition the FAA for an exemption from our operating rules.

If the FAA did not go forward with this final rule, an aircraft operator would have to petition for an exemption to allow the use of CRSs that the FAA has already determined to be safe through these certification standards. By amending the rule to allow both aircraft operators and passengers to voluntarily furnish and use CRSs approved by the FAA under § 21.305(d) or TSO C–100b, the FAA will reduce an administrative burden on aircraft operators by eliminating the need to apply for exemptions to allow the use of these CRSs. Increasing the number of CRS certification options available for manufacturers and amending the operating rules to make these options administratively and economically viable should encourage the development of innovative CRSs. In addition, the FAA is ensuring safety through the approval standards in § 21.305(d) and TSO C–100b. For more information on how the FAA will ensure safety through the approval standards in § 21.305(d) and TSO C–100b, see the preamble discussion under "FAA Approval Process."

Detailed Discussion of Rule

The FAA is increasing the types of CRSs that passengers and aircraft operators are allowed to furnish and use to include CRSs approved by the FAA under § 21.305(d) and TSO C–100b. In 1992, the FAA increased the types of CRSs allowed on aircraft to include use of CRSs that meet the standards of the United Nations or are approved by a foreign government (57 FR 42662; September 15, 1992). This rule does not affect the use of CRSs that are already approved for use on aircraft. See *www.faa.gov/passengers/childtips.cfm* for FAA recommendations on choosing the correct CRS for air travel.

Executive Order 13045, Protection of Children From Environmental Health Risks and Safety Risks (April 21,1997) states, "children may suffer disproportionately from environmental health risks and safety risks" because "children's size and weight may diminish their protection from standard safety features." Properly restraining children on aircraft is difficult because there is a large variance in muscle development, height, weight, and upper body strength. While CRSs meeting the FMVSS No. 213 standard do not always fit well in an aircraft seat, CRSs meeting this standard markedly improve the safety of a child under 44 pounds who would otherwise use a lap belt, or be unrestrained on a parent's lap. However, because these CRSs are bulky, and sometimes difficult to install properly, many parents or guardians elect to use the standard aircraft lap belt for their child. The FAA has determined this final rule will help to make a wider variety of safe CRSs available for use by children on an aircraft, thereby increasing the safety of children.

One example of a CRS that the FAA is considering approving under § 21.305(d) is currently manufactured by AMSAFE. This CRS improves lap belt performance for children between 22 and 44 pounds who would otherwise use only the lap belt. Unlike the harness devices prohibited from use by our current rules (see discussion under Prohibition Against the Use of Certain CRS During Ground Movement, Take Off and Landing), the AMSAFE CAReS uses an additional belt and shoulder harness that encircles the seat back and attaches to the passenger lap belt, providing improved upper torso restraint.

To reduce the administrative burden on industry while maintaining or increasing safety to children, the FAA is adding regulatory language in 14 CFR parts 91, 121, 125, and 135 that allows passengers and aircraft operators to furnish and use CRSs the FAA has approved under § 21.305(d) or TSO C–100b, and to use them during all phases of flight, even if such CRSs are booster-type or vest- and harness-type CRSs. Thus, although the rules will generally continue to ban the use of booster-type, vest-type, and harness-type CRSs, the new rule will allow the use of such CRSs if the CRS has been approved by the FAA under § 21.305(d) or TSO C–100b. The FAA anticipates that other manufacturers of CRSs not meeting FMVSS No. 213 will seek FAA approval under § 21.305(d) or TSO C–100b. As with the AMSAFE CAReS, the FAA will need to determine, through the appropriate approval process, if the CRS is a safe alternative to methods of restraint that are already approved for use on aircraft.

Prohibition Against the Use of Certain CRS During Ground Movement, Take Off, and Landing

Under the current rules, except for CRSs that are approved under TC, STC, or TSO, a booster-type child restraint, a vest-type child restraint system, a harness-type child restraint system, or a lap held child restraint system may not be used during ground movement, take off, and landing. In 1996, the FAA prohibited use of these CRSs (61 FR 28416).[1] However, the FAA also stated we would review our prohibition if a manufacturer designs a safe alternative (61 FR 28419). Again, in this final rule the FAA is amending the operating regulations to allow passengers and aircraft operators to voluntarily furnish CRSs approved under § 21.305(d) or TSO C–100b, and to use these CRSs during all phases of flight, even if the CRS is a booster-type child restraint, a vest-type child restraint system, or a harness-type child restraint system.

FAA Approval Processes

Under the changes we are making to the operating regulations, a passenger or operator will be able to furnish and use CRSs approved under § 21.305(d) or TSO C–100b. Passengers and aircraft operators will continue to be allowed to furnish and use CRSs that meet the requirements of FMVSS No. 213 or the standards of the United Nations, or are approved by a foreign government. The United Nations standards and most standards approved by foreign governments are similar to FMVSS No. 213. Foreign governments are responsible for determining whether to accept under their operating regulations CRSs approved by the FAA under § 21.305(d) or TSO C–100b. However, most countries automatically accept FAA approval without further review. By using § 21.305(d) or TSO C–100b for CRS approval, the FAA can address methods of CRS approval that encourage CRS innovation, while still ensuring safety through the approval processes. Each CRS manufacturer will have the ability to select the approval process that is most appropriate for its CRS, based on CRS design and proposed equivalent level of safety.

FAA Approval Under § 21.305(d)

Under the FAA's certification procedures rules, § 21.305(d) allows a material, part, process, or appliance to be approved in any manner approved by the Administrator. One of the reasons that the FAA included this provision in § 21.305 over 40 years ago, was to address the unique challenges presented by certain types of equipment for use on aircraft. In the past, the FAA has approved portable equipment (e.g., portable fire extinguishers) for use on aircraft, in accordance with § 21.305(d), using the approval standards of Underwriter's Laboratories, Inc., Factory Mutual Reserch Corp., or the U.S. Coast Guard under Title 46 of the CFR.

When approving a CRS under the provisions of § 21.305(d), the FAA must ensure that the applicant meets an equivalant level of safety to that of the other approval processes. For a CRS, the FAA's technical experts will look at the benchmark (TSO C–100b) and identify the safety-critical features. They will ensure that each of these features adequately provides an equivalent level of safety. This will ensure that a CRS approved by the FAA under § 21.305(d) will meet a high level of safety regarding testing, quality, and performance standards.

To demonstrate an equivalent level of safety for a harness-type restraint, similar to the AMSAFE CAReS discussed earlier, the FAA will look at things such as:

- Does the CRS retain the aircraft passenger seat lap belt's original functionality as the primary means of occupant restraint;
- Is the CRS designed so children using it correctly will not suffer serious injury when exposed to the inertia forces specified in 14 CFR 25.561 and 14 CFR 25.562;
- Does the CRS, when being used, impede the rapid egress for the CRS occupant and passengers in the same row;
- Is the performance of the CRS degraded by tray tables, phones, or other devices installed in the seat back;
- When used properly, does the CRS interfere with normal operation of the tray table or other seat-mounted devices? For example, under anticipated loading conditions, does the CRS cause the tray table to deploy?

To review a copy of the requirements applicable to a CRS that the FAA is currently considering approving under the § 21.305(d) approval process, see the docket for this rulemaking.

TSO Process

A TSO is a minimum performance standard issued by the FAA for specified materials, parts, processes, and appliances used on aircraft. These performance standards must be met for an applicant to receive TSO approval. The current listing of TSO information contains a list of authorized manufacturers and articles produced by TSO Holders under a TSO Authorization or Letter of TSO Design Approval. The Web site also contains TSO C–100b, *Child Restraint System.* TSO C–100b tells people seeking a TSO Authorization or Letter of Design Approval what minimum performance standards their CRS must first meet to obtain FAA approval under the TSO process. For more information on TSOs, see *http://www.airweb.faa.gov/Regulatory_and_Guidance_Library/rgTSO.nsf/MainFrame?OpenFrameSet.*

TSO C–100b contains standards for performance testing and evaluation, operating instructions, equipment limitations, installation procedures and limitations, and instructions for continuing maintenance of CRSs. The standards are those the FAA finds necessary to ensure that a CRS will operate satisfactorily in an aircraft passenger seat. These standards are not mandatory, and are one method of obtaining FAA approval for a CRS. An applicant can obtain approval to deviate from the TSO if it shows that the CRS design features provide an equivalent level of safety to the TSO under standard TSO review processes or under the § 21.305(d) approval process.

TSO C–100b is a specific aviation performance standard that is similar to the standard required by FMVSS No. 213. However, TSO C–100b requires testing that is representative of an aviation environment, so the chances of a CRS built to TSO C–100b standards performing "as tested" on an aircraft in an accident are greater than a CRS tested under FMVSS No. 213. TSO C–100b was published in the **Federal Register** on August 7, 2001, for public review and comment prior to its adoption (66 FR 41304).

In this final rule the FAA allows passengers and aircraft operators to voluntarily furnish and use CRSs approved under TSO C 100b, without a requirement for installation approval. This is the same standard of use provided to passengers and aircraft operators in the current rule regarding CRSs that meet the requirements of FMVSS No. 213.

FAA CRS Initiatives

Increasing the Voluntary Use of CRSs and Encouraging the Development of Innovative CRSs in the Aviation Environment

This final rule is part of a multi-faceted FAA initiative to encourage and increase the voluntary use of CRSs and to encourage the development of innovative CRSs that work well in the

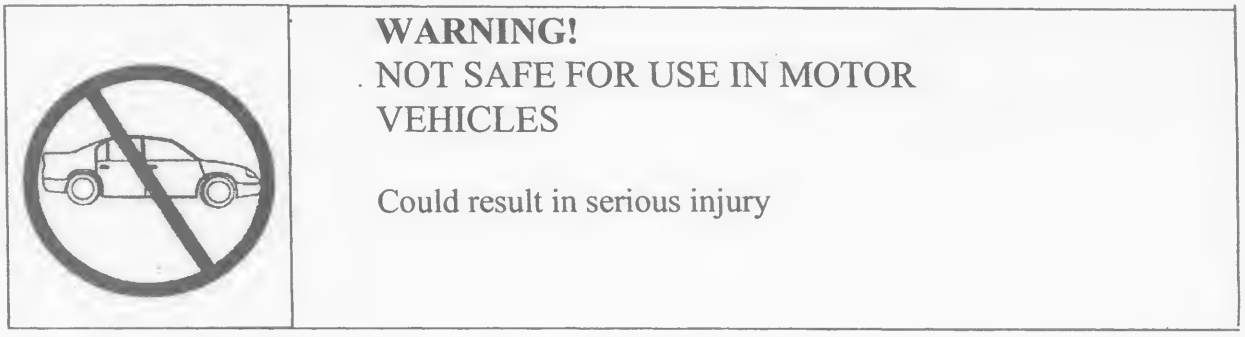
[1] During the cruise portion of the flight, there is no regulatory prohibition regarding the use of any type of child restraint. This includes those CRSs prohibited from use during ground movement, takeoff, and landing.

aviation environment. The FAA is working to increase the types of CRS that are approved for use in aircraft and to reduce the administrative burden to aircraft operators and CRS manufacturers through this rulemaking and our August 26, 2005, final rule. In addition, the FAA is actively working with CRS manufacturers who are seeking FAA approval by STC, or TSO, for innovative CRS designs. The FAA also initiated a public education campaign, "Turbulence Happens", on the effective use of CRS in the fall of 2005 and published Advisory Circular (AC) 120–87, Use of Child Restraint Systems on Aircraft, on November 3, 2005. See *http://www.airweb.faa.gov/Regulatory_and_Guidance_Library/rgAdvisoryCircular.nsf* for more information on AC 120–87.

Avoiding Consumer Confusion

Labeling. FAA-approved CRSs that do not meet FMVSS No. 213 are not safe for use in motor vehicles. Therefore, the FAA is taking several steps to avoid consumer confusion regarding these devices. First, the FAA will require CRSs that are approved by TSO or § 21.305(d) to have a clear warning label that states the CRS is not safe for use in motor vehicles. Although not part of this rulemaking, the FAA also plans to require a similar warning label on CRSs that may be approved by the FAA through the STC process. See Figure 1 for a sample of the warning label the FAA will require.

Figure 1. Required Warning Label for Devices Approved by the FAA



Second, the FAA is revising existing educational material to advise aircraft operators and parents about the risks that a device approved solely for use in an aircraft can pose in an automotive environment. As part of this initiative, the FAA is revising the information on its website for passengers traveling with children. We are putting additional educational material on the site to remind people that FAA-approved devices are not safe for use in motor vehicles. Third, the FAA is revising its AC concerning Child Restraints to include specific information stating the differences between FAA-approved devices that can only be used in aircraft and CRSs that can be used in both aircraft and motor vehicles.

Aviation Child Safety Devices. The FAA recognizes that the term "Child Restraint System" originally was used to refer to child restraints that meet the requirements of FMVSS No. 213. However, in the 1992 and 2005 rulemakings the term "CRS" was used to describe devices that did not meet the requirements of FMVSS No. 213. The FAA will continue to use the general term "CRS" to refer to any approved seat or device used to restrain children on aircraft. However, in an additional effort to reduce consumer confusion regarding devices that meet the requirements of FMVSS No. 213 and are safe for use in motor vehicles, and those devices that do not meet FMVSS No. 213, the FAA intends to introduce a new term in appropriate FAA documents and public education materials to refer to CRSs that are only approved for use in the aviation environment. The FAA will call these aviation-only restraints "Aviation Child Safety Devices" (ACSDs) The FAA is working with the National Highway Traffic Safety Administration to ensure that any labeling on ACSDs does not confuse consumers into thinking the devices meet the requirements of FMVSS No. 213.

Paperwork Reduction Act

The Paperwork Reduction Act of 1995 (44 U.S.C. 3507(d)) requires that the FAA consider the impact of paperwork and other information collection burdens imposed on the public. We have determined that there are no new information collection requirements associated with this rule.

International Compatibility

In keeping with U.S. obligations under the Convention on International Civil Aviation, it is FAA policy to comply with International Civil Aviation Organization (ICAO) Standards and Recommended Practices to the maximum extent practicable. The FAA has determined that there are no ICAO Standards and Recommended Practices that correspond to these regulations.

Good Cause for Immediate Adoption

Section 4(a) of the Administrative Procedure Act (APA) (5 U.S.C. 553(b)(B)) authorizes agencies to dispense with certain notice procedures for rules when they find "good cause" to do so. Under section 553(b)(B), the requirements of prior notice and opportunity for comment do not apply when the agency for good cause finds that those procedures are "impracticable, unnecessary, or contrary to the public interest."

This final rule would allow passengers and aircraft operators to voluntarily furnish and use CRSs that have received FAA approval through § 21.305(d) or TSO C–100b. This is parallel to the current regulations that allow passengers and aircraft operators to voluntarily furnish and use CRSs that meet FMVSS No. 213, meet the standards of the United Nations, or are approved by a foreign government. Prior public comment is unnecessary because this amendment simply recognizes other processes by which a CRS can be approved for use on aircraft. TSO C–

100b and § 21.305(d), which uses TSO C–100b as a benchmark for CRS approval standards, were already subject to notice and comment. Moreover, the FAA has already obtained public comments regarding the August 26, 2005 final rule, and this final rule is responsive to those comments.

We do not anticipate significant public comment on this amendment, since it does not impose a requirement. This final rule simply recognizes that the FAA has additional approval processes to determine that a CRS is safe for use on aircraft and removes an administrative burden for an operator to apply for an exemption to allow a passenger or the operator to voluntarily furnish and use a CRS that the FAA has found safe through § 21.305(d) or TSO C–100b. In addition, there is already precedent for broadening the methods of approving CRSs for use on aircraft such as those CRSs showing approval from a foreign government or showing approval that the CRS was manufactured under the standards of the United Nations (57 FR 42662; September 15, 1992).

This final rule should not have an adverse safety impact, because it merely recognizes an alternative approval process for CRSs and makes CRSs more widely available for children by allowing passengers and aircraft operators to voluntarily furnish and use CRSs approved under § 21.305(d) and TSO C–100b on aircraft. In fact, it should provide safety benefits. As a result, the FAA has determined that good cause exists for making this rule effective 30 days after publication because notice and comment procedures are unnecessary.

Economic Evaluation, Regulatory Flexibility Determination, Trade Impact Assessment, and Unfunded Mandates Assessment

Changes to Federal regulations must undergo several economic analyses. First, Executive Order 12866 directs that each Federal agency shall propose or adopt a regulation only upon a reasoned determination that the benefits of the intended regulation justify its costs. Second, the Regulatory Flexibility Act of 1980 (Pub. L. 96–354) requires agencies to analyze the economic impact of regulatory changes on small entities. Third, the Trade Agreements Act (Pub. L. 96–39) prohibits agencies from setting standards that create unnecessary obstacles to the foreign commerce of the United States. In developing U.S. standards, this Trade Act requires agencies to consider international standards and, where appropriate, that they be the basis for U.S. standards. Fourth, the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4) requires agencies to prepare a written assessment of the costs, benefits, and other effects of proposed or final rules that include a Federal mandate likely to result in the expenditure by State, local, or tribal governments, in the aggregate, or by the private sector, of $100 million or more annually (adjusted for inflation).

The Department of Transportation Order DOT 2100.5 prescribes policies and procedures for simplification, analysis, and review of regulations. If it is determined that the expected cost impact is so minimal that a rule does not warrant a full evaluation, this order permits that a statement to that effect and the basis for it be included in the preamble; a full regulatory evaluation cost benefit evaluation need not, then, be prepared. Such a determination has been made for this rule. The reasoning for that determination follows.

This final rule will allow passengers and aircraft operators to voluntarily furnish and use CRSs approved by the FAA under § 21.305(d) or TSO C–100b on aircraft. This parallels current regulations that allow passengers and aircraft operators to voluntarily furnish and use CRSs that meet FMVSS No. 213, meet the standards of the United Nations, or are approved by a foreign government. Adding this language does not have an adverse safety impact, because the language merely recognizes the efficacy of alternative approval processes for CRSs. The intended effect of this regulation is to lessen the administrative burden to industry and increase the voluntary use of CRS on aircraft, while maintaining or increasing safety for children.

This final rule reduces the regulatory, or administrative, burden to industry by taking away the necessity for aircraft operators to individually seek an exemption from FAA operating rules in order for passengers, or for themselves, to furnish and use CRSs approved under § 21.305(d) or TSO C–100b.

Regulatory Flexibility Determination

The Regulatory Flexibility Act of 1980 (RFA) establishes "as a principle of regulatory issuance that agencies shall endeavor, consistent with the objective of the rule and of applicable statutes, to fit regulatory and informational requirements to the scale of the business, organizations, and governmental jurisdictions subject to regulation." To achieve that principle, the RFA requires agencies to solicit and consider flexible regulatory proposals and to explain the rationale for their actions. The RFA covers a wide-range of small entities, including small businesses, not-for-profit organizations, and small governmental jurisdictions.

Agencies must perform a review to determine whether a proposed or final rule will have a significant economic impact on a substantial number of small entities. If the agency determines that it will, the agency must prepare a regulatory flexibility analysis as described in the RFA. However, if an agency determines that a proposed or final rule is not expected to have a significant economic impact on a substantial number of small entities, section 605(b) of the RFA provides that the head of the agency may so certify and a regulatory flexibility analysis is not required. The certification must include a statement providing the factual basis for this determination, and the reasoning should be clear.

This final rule allows passengers and aircraft operators to voluntarily furnish and use CRS approved under 21.305(d) or TSC C–100b on aircraft. Its economic impact for aircraft operators is minimal and cost relieving. Therefore, as the FAA Administrator, I certify that this action will not have a significant economic impact on a substantial number of small entities. The FAA solicits comments about this determination.

Trade Impact Assessment

The Trade Agreements Act of 1979 prohibits Federal agencies from establishing any standards or engaging in related activities that create unnecessary obstacles to the foreign commerce of the United States. Legitimate domestic objectives, such as safety, are not considered unnecessary obstacles. The statute also requires consideration of international standards and, where appropriate, that they be the basis for U.S. standards. The FAA has assessed the potential effect of this rulemaking and has determined that it will have only a domestic impact and therefore no effect on any trade-sensitive activity.

Unfunded Mandates Assessment

The Unfunded Mandates Reform Act of 1995 (the Act) is intended, among other things, to curb the practice of imposing unfunded Federal mandates on State, local, and tribal governments. Title II of the Act requires each Federal agency to prepare a written statement assessing the effects of any Federal mandate in a proposed or final agency rule that may result in an expenditure of $100 million or more (adjusted annually for inflation) in any one year by State, local, and tribal governments, in the aggregate, or by the private sector; such a mandate is deemed to be a

"significant regulatory action." The FAA currently uses an inflation-adjusted value of $120.7 million in lieu of $100 million.

This final rule does not contain such a mandate. The requirements of Title II of the Act, therefore, do not apply.

Executive Order 13132, Federalism

The FAA has analyzed this final rule under the principles and criteria of Executive Order 13132, Federalism. We determined that this action does not have a substantial direct effect on the States, on the relationship between the national Government and the States, or on the distribution of power and responsibilities among the various levels of government, and therefore would not have federalism implications.

Environmental Analysis

FAA Order 1050.1E identifies FAA actions that are categorically excluded from preparation of an environmental assessment or environmental impact statement under the National Environmental Policy Act in the absence of extraordinary circumstances. The FAA has determined this final rule qualifies for the categorical exclusion identified in paragraph 312f and involves no extraordinary circumstances.

Regulations That Significantly Affect Energy Supply, Distribution, or Use

The FAA has analyzed this final rule under Executive Order 13211, Actions Concerning Regulations that Significantly Affect Energy Supply, Distribution, or Use (May 18, 2001). We have determined that it is not a "significant energy action" under the executive order because it is not a "significant regulatory action" under Executive Order 12866, and it is not likely to have a significant adverse effect on the supply, distribution, or use of energy.

List of Subjects

14 CFR Part 91

Aircraft, Aviation safety.

14 CFR Part 121

Air carriers, Safety, Transportation.

14 CFR Part 125

Aircraft, Aviation safety.

14 CFR Part 135

Air taxis, Aircraft, Aviation safety.

The Amendments

■ In consideration of the foregoing the Federal Aviation Administration amends Chapter I of Title 14 Code of Federal Regulations as follows:

PART 91—GENERAL OPERATING AND FLIGHT RULES

■ 1. The authority citation for part 91 continues to read as follows:

Authority: 49 U.S.C. 106(g), 1155, 40103, 40113, 40120, 44101, 44111, 44701, 44709, 44711, 44712, 44715, 44716, 44717, 44722, 46306, 46315, 46316, 46504, 46506–46507, 47122, 47508, 47528–47531, articles 12 and 29 of the Convention on International Civil Aviation (61 Stat.1180).

■ 2. Amend § 91. 107 by revising paragraphs (a)(3)(iii)(B)(*3*)(*iii*), (a)(3)(iii)(B)(*4*), and adding (a)(3)(iii)(B)(*3*)(*iv*) to read as follows:

§ 91.107 Use of safety belts, shoulder harnesses, and child restraint systems.

(a) * * *
(3) * * *
(iii) * * *
(B) * * *
(*3*) * * *

(*iii*) That the seat or child restraint device furnished by the operator was approved by the FAA through Type Certificate or Supplemental Type Certificate.

(*iv*) That the seat or child restraint device furnished by the operator, or one of the persons described in paragraph (a) (3) (iii) (A) of this section, was approved by the FAA in accordance with § 21.305(d) or Technical Standard Order C–100b, or a later version.

(*4*) Except as provided in § 91.107(a)(3)(iii)(B)(*3*)(*iii*) and § 91.107(a)(3)(iii)(B)(*3*)(*iv*), booster-type child restraint systems (as defined in Federal Motor Vehicle Safety Standard No. 213 (49 CFR 571.213)), vest- and harness-type child restraint systems, and lap held child restraints are not approved for use in aircraft; and

* * * * *

PART 121—OPERATING REQUIREMENTS: DOMESTIC, FLAG, AND SUPPLEMENTAL OPERATIONS

■ 3. The authority citation for part 121 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 40119, 41706, 44101, 44701–44702, 44705, 44709–44711, 44713, 44716–44717, 44722, 44901, 44903–44904, 44912, 45101–45105, 46105, 46301.

■ 4. Amend § 121.311 by revising paragraphs (b)(2)(ii)(C)(*3*), (b)(2)(ii)(D), and (c)(1), and adding paragraph (b)(2)(ii)(C)(*4*) to read as follows:

§ 121.311 Seats, safety belts, and shoulder harnesses.

(b) * * *
(2) * * *
(ii) * * *
(C) * * *

(*3*) That the seat or child restraint device furnished by the certificate holder was approved by the FAA through Type Certificate or Supplemental Type Certificate.

(*4*) That the seat or child restraint device furnished by the certificate holder, or one of the persons described in paragraph (b) (2) (i) of this section, was approved by the FAA in accordance with § 21.305(d) or Technical Standard Order C–100b, or a later version.

(D) Except as provided in § 121.311(b)(2)(ii)(C)(*3*) and § 121.311(b)(2)(ii)(C)(*4*), booster-type child restraint systems (as defined in Federal Motor Vehicle Safety Standard No. 213 (49 CFR 571.213)), vest- and harness-type child restraint systems, and lap held child restraints are not approved for use in aircraft; and

(c) * * *

(1) Except as provided in § 121.311(b)(2)(ii)(C)(*3*) and § 121.311(b)(2)(ii)(C)(*4*), no certificate holder may permit a child, in an aircraft, to occupy a booster-type child restraint system, a vest-type child restraint system, a harness-type child restraint system, or a lap held child restraint system during take off, landing, and movement on the surface.

* * * * *

PART 125—CERTIFICATION AND OPERATIONS: AIRPLANES HAVING A SEATING CAPACITY OF 20 OR MORE PASSENGERS OR A MAXIMUM PAYLOAD CAPACITY OF 6,000 POUNDS OR MORE; AND RULES GOVERNING PERSONS ON BOARD SUCH AIRCRAFT

■ 5. The authority citation for part 125 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701–44702, 44705, 44710–44711, 44713, 44716–44717, 44722.

■ 6. Amend § 125.211 by revising paragraphs (b)(2)(ii)(C)(*3*), (b)(2)(ii)(D), and (c)(1), and adding paragraph (b)(2)(ii)(C)(*4*) to read as follows:

§ 125.211 Seat and safety belts.

(b) * * *
(1) * * *
(2) * * *
(ii) * * *
(C) * * *

(*3*) That the seat or child restraint device furnished by the certificate holder was approved by the FAA through Type Certificate or Supplemental Type Certificate.

(*4*) That the seat or child restraint device furnished by the certificate holder, or one of the persons described in paragraph (b)(2)(i) of this section, was

approved by the FAA in accordance with § 21.305(d) or Technical Standard Order C–100b, or a later version.

(D) Except as provided in § 125.211(b)(2)(C)(*3*) and § 125.211(b)(2)(C)(*4*), booster-type child restraint systems (as defined in Federal Motor Vehicle Safety Standard No. 213 (49 CFR 571.213)), vest- and harness-type child restraint systems, and lap held child restraints are not approved for use in aircraft; and

(c) * * *

(1) Except as provided in § 125.211(b)(2)(ii)(C)(*3*) and § 125.211(b)(2)(ii)(C)(*4*), no certificate holder may permit a child, in an aircraft, to occupy a booster-type child restraint system, a vest-type child restraint system, a harness-type child restraint system, or a lap held child restraint system during take off, landing, and movement on the surface.

* * * * *

PART 135—OPERATING REQUIREMENTS: COMMUTER AND ON-DEMAND OPERATIONS

■ 7. The authority citation for part 135 continues to read as follows:

Authority: 49 U.S.C. 106(g), 44113, 44701–44702, 44705, 44709, 44711–44713, 44715–44717, 44722.

■ 8. Amend § 135.128 by revising paragraphs (a)(2)(ii)(C)(*3*), (a)(2)(ii)(D), and (b)(1), and adding pargraph (a)(2)(ii)(C)(*4*) to read as follows:

§ 135.128 Use of safety belts and child restraint systems.

(a) * * *

(2) * * *

(ii) * * *

(C) * * *

(*3*) That the seat or child restraint device furnished by the certificate holder was approved by the FAA through Type Certificate or Supplemental Type Certificate.

(*4*) That the seat or child restraint device furnished by the certificate holder, or one of the persons described in paragraph (b)(2)(i) of this section, was approved by the FAA in accordance with § 21.305(d) or Technical Standard Order C–100b, or a later version.

(D) Except as provided in § 135.128(a)(2)(C)(*3*) and § 135.128(a)(2)(C)(*4*), booster-type child restraint systems (as defined in Federal Motor Vehicle Safety Standard No. 213 (49 CFR 571.213)), vest- and harness-type child restraint systems, and lap held child restraints are not approved for use in aircraft; and

(b) * * *

(1) Except as provided in § 135.128 (a)(2)(ii)(C)(*3*) and § 135.128 (a)(2)(ii)(C)(*4*), no certificate holder may permit a child, in an aircraft, to occupy a booster-type child restraint system, a vest-type child restraint system, a harness-type child restraint system, or a lap held child restraint system during take off, landing, and movement on the surface.

* * * * *

Issued in Washington, DC, on July 7, 2006.

Marion C. Blakey,

Administrator.

[FR Doc. E6–11112 Filed 7–13–06; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 520

Oral Dosage Form New Animal Drugs; Ivermectin Paste

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 Med-Pharmex, Inc. The ANADA provides for oral use of ivermectin paste in horses for treatment and control of various internal parasites or parasitic conditions.

DATES: This rule is effective July 14, 2006.

FOR FURTHER INFORMATION CONTACT: John K. Harshman, Center for Veterinary Medicine (HFV–104), Food and Drug Administration, 7500 Standish Pl., Rockville, MD 20855, 301–827–0169, e-mail: *john.harshman@fda.hhs.gov.*

SUPPLEMENTARY INFORMATION: Med-Pharmex, Inc., 2727 Thompson Creek Rd., Pomona, CA 91767–1861, filed ANADA 200–390 for oral use of Ivermectin Paste 1.87% in horses for the treatment and control of various species of internal parasites or parasitic conditions. Med-Pharmex's Ivermectin Paste 1.87% is approved as a generic copy of Merial Ltd.'s EQVALAN Paste, approved under NADA 134–314. ANADA 200–390 is approved as of June 20, 2006, and 21 CFR 520.1192 is amended 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 Subjects in 21 CFR Part 520

Animal drugs.

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

PART 520—ORAL DOSAGE FORM NEW ANIMAL DRUGS

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

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

■ 2. In § 520.1192, add paragraph (b)(4) to read as follows:

§ 520.1192 Ivermectin paste.

* * * * *

(b) * * *

(4) No. 054925 for use of a 1.87 percent paste as in paragraphs (e)(1)(i), (e)(1)(ii)(A), and (e)(1)(iii) of this section.

* * * * *

Dated: June 30, 2006.

Catherine P. Beck,

Acting Director, Center for Veterinary Medicine.

[FR Doc. E6–11073 Filed 7–13–06; 8:45 am]

BILLING CODE 4160–01–S

PENSION BENEFIT GUARANTY CORPORATION

29 CFR Parts 4022 and 4044

Benefits Payable in Terminated Single-Employer Plans; Allocation of Assets in Single-Employer Plans; Interest Assumptions for Valuing and Paying Benefits

AGENCY: Pension Benefit Guaranty Corporation.

ACTION: Final rule.

SUMMARY: The Pension Benefit Guaranty Corporation's regulations on Benefits Payable in Terminated Single-Employer Plans and Allocation of Assets in Single-Employer Plans prescribe interest assumptions for valuing and paying benefits under terminating single-employer plans. This final rule amends the regulations to adopt interest assumptions for plans with valuation dates in August 2006. Interest assumptions are also published on the PBGC's Web site (*http://www.pbgc.gov*).

DATES: Effective August 1, 2006.

FOR FURTHER INFORMATION CONTACT: Catherine B. Klion, Attorney, Legislative and Regulatory Department, Pension Benefit Guaranty Corporation, 1200 K Street, NW., Washington, DC 20005, 202–326–4024. (TTY/TDD users may call the Federal relay service toll-free at 1–800–877–8339 and ask to be connected to 202–326–4024.)

SUPPLEMENTARY INFORMATION: The PBGC's regulations prescribe actuarial assumptions—including interest assumptions—for valuing and paying plan benefits of terminating single-employer plans covered by title IV of the Employee Retirement Income Security Act of 1974. The interest assumptions are intended to reflect current conditions in the financial and annuity markets.

Three sets of interest assumptions are prescribed: (1) A set for the valuation of benefits for allocation purposes under section 4044 (found in Appendix B to Part 4044), (2) a set for the PBGC to use to determine whether a benefit is payable as a lump sum and to determine lump-sum amounts to be paid by the PBGC (found in Appendix B to Part 4022), and (3) a set for private-sector pension practitioners to refer to if they wish to use lump-sum interest rates determined using the PBGC's historical methodology (found in Appendix C to Part 4022).

This amendment (1) Adds to Appendix B to Part 4044 the interest assumptions for valuing benefits for allocation purposes in plans with valuation dates during August 2006, (2) adds to Appendix B to Part 4022 the interest assumptions for the PBGC to use for its own lump-sum payments in plans with valuation dates during August 2006, and (3) adds to Appendix C to Part 4022 the interest assumptions for private-sector pension practitioners to refer to if they wish to use lump-sum interest rates determined using the PBGC's historical methodology for valuation dates during August 2006.

For valuation of benefits for allocation purposes, the interest assumptions that the PBGC will use (set forth in Appendix B to part 4044) will be 6.40 percent for the first 20 years following the valuation date and 4.75 percent thereafter. These interest assumptions represent an increase (from those in effect for July 2006) of 0.10 percent for the first 20 years following the valuation date and are otherwise unchanged. These interest assumptions reflect the PBGC's recently updated mortality assumptions, which are effective for terminations on or after January 1, 2006. See the PBGC's final rule published December 2, 2005 (70 FR 72205), which is available at *http://www.pbgc.gov/docs/05–23554.pdf*. Because the updated mortality assumptions reflect improvements in mortality, these interest assumptions are higher than they would have been using the old mortality assumptions.

The interest assumptions that the PBGC will use for its own lump-sum payments (set forth in Appendix B to part 4022) will be 3.50 percent for the period during which a benefit is in pay status and 4.00 percent during any years preceding the benefit's placement in pay status. These interest assumptions represent no change from those in effect for July 2006. For private-sector payments, the interest assumptions (set forth in Appendix C to part 4022) will be the same as those used by the PBGC for determining and paying lump sums (set forth in Appendix B to part 4022).

The PBGC has determined that notice and public comment on this amendment are impracticable and contrary to the public interest. This finding is based on the need to determine and issue new interest assumptions promptly so that the assumptions can reflect current market conditions as accurately as possible.

Because of the need to provide immediate guidance for the valuation and payment of benefits in plans with valuation dates during August 2006, the PBGC finds that good cause exists for making the assumptions set forth in this amendment effective less than 30 days after publication.

The PBGC has determined that this action is not a "significant regulatory action" under the criteria set forth in Executive Order 12866.

Because no general notice of proposed rulemaking is required for this amendment, the Regulatory Flexibility Act of 1980 does not apply. *See* 5 U.S.C. 601(2).

List of Subjects

29 CFR Part 4022

Employee benefit plans, Pension insurance, Pensions, Reporting and recordkeeping requirements.

29 CFR Part 4044

Employee benefit plans, Pension insurance, Pensions.

■ In consideration of the foregoing, 29 CFR parts 4022 and 4044 are amended as follows:

PART 4022—BENEFITS PAYABLE IN TERMINATED SINGLE-EMPLOYER PLANS

■ 1. The authority citation for part 4022 continues to read as follows:

Authority: 29 U.S.C. 1302, 1322, 1322b, 1341(c)(3)(D), and 1344.

■ 2. In appendix B to part 4022, Rate Set 154, as set forth below, is added to the table.

Appendix B to Part 4022—Lump Sum Interest Rates For PBGC Payments

* * * * *

Rate set	For plans with a valuation date		Immediate annuity rate (percent)	Deferred annuities (percent)				
	On or after	Before		i_1	i_2	i_3	n_1	n_2
*	*	*	*	*	*	*	*	*
154	8–1–06	9–1–06	3.50	4.00	4.00	4.00	7	8

■ 3. In appendix C to part 4022, Rate Set 154, as set forth below, is added to the table.

Appendix C to Part 4022—Lump Sum Interest Rates for Private-Sector Payments

* * * * *

Rate set	For plans with a valuation date		Immediate annuity rate (percent)	Deferred annuities (percent)				
	On or after	Before		i_1	i_2	i_3	n_1	n_2
*	*	*	*	*	*	*	*	*
154	8–1–06	9–1–06	3.50	4.00	4.00	4.00	7	8

PART 4044—ALLOCATION OF ASSETS IN SINGLE-EMPLOYER PLANS

■ 4. The authority citation for part 4044 continues to read as follows:

Authority: 29 U.S.C. 1301(a), 1302(b)(3), 1341, 1344, 1362.

■ 5. In appendix B to part 4044, a new entry for August 2006, as set forth below, is added to the table.

Appendix B to Part 4044—Interest Rates Used to Value Benefits

* * * * *

For valuation dates occurring in the month—	The values of i_t are:					
	i_t	for t =	i_t	for t =	i_t	for t =
*	*	*	*	*	*	*
August 2006	.0640	1–20	.0475	>20	N/A	N/A

Issued in Washington, DC, on this 7th day of July 2006.

Vincent K. Snowbarger,

Acting Executive Director, Pension Benefit Guaranty Corporation.

[FR Doc. E6–11101 Filed 7–13–06; 8:45 am]

BILLING CODE 7709–01–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 100

[CGD07–06–108]

RIN 1625–AA08

Special Local Regulation; Annual Greater Jacksonville Kingfish Tournament; Jacksonville, FL

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

SUMMARY: This rule temporarily suspends the current special local regulations, established for the Annual Greater Jacksonville Kingfish Tournament, Jacksonville, Florida, and adds a temporary final rule for the event due to changes in the tournament this year. This special local regulation is necessary to reflect the changes made to the tournament by the sponsor and to ensure the safety of participating vessels and spectators within the regulated area.

DATES: This rule is effective from July 17, 2006 to July 22, 2006.

ADDRESSES: Documents mentioned in this preamble as being available in the docket are part of docket [CGD 07–06–108] and are available for inspection and copying at Coast Guard Sector Jacksonville Prevention Department, 7820 Arlington Expressway, Suite 400, Jacksonville, Florida, 32211, between 8 a.m. and 4 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Ensign Kira Peterson at Coast Guard Sector Jacksonville Prevention Department, Florida, tel: (904) 232–2640, ext. 108.

SUPPLEMENTARY INFORMATION:

Regulatory Information

We did not publish a notice of proposed rulemaking (NPRM) for this regulation. Under 5 U.S.C. 553(b)(B), the Coast Guard finds that good cause exists for not publishing a NPRM. The changes to this event were not relayed to the Coast Guard with enough time to allow for public comment. Publishing a NPRM with a comment period would delay the rule's effective date and is contrary to public interest because immediate action is necessary to protect the public and waters of the United States.

For the same reasons, under 5 U.S.C. 553(d)(3), the Coast Guard finds that good cause exists for making this rule effective less than 30 days after publication in the **Federal Register**. The Coast Guard will issue a broadcast notice to mariners and Coast Guard or local law enforcement vessels will be in the vicinity of this zone to advise mariners of the restriction.

Background and Purpose

The Greater Jacksonville Kingfish Tournament is held annually the second full week of July along the waters of the St. Johns River and the Atlantic Ocean. This regulation will temporarily change the eastern boundary of the regulated area found in paragraph (a) of Section 100.710 from Lighted Buoy 7 (LLNR 7145) in approximate position 30–23.56N, 081–23.04W, and Lighted Buoy 8 (LLNR 7150) in position 30–24.03N, 081–23.01W, to Lighted Buoy 10 (LLNR 2190) at approximate position 30–24.376N, 081–24.998W. Changes are also being made to the effective dates found in paragraph (c) of Section 100.710 as the tournament will now take place the second full week after July 4th. Additionally, a new paragraph (b) is being added to define "Minimum Safe Speed" and existing paragraphs (b) and (c) are being redesignated (c) and (d) accordingly. Coast Guard Sector Jacksonville will issue a Local Notice to Mariners announcing times and dates the regulated area is in effect. Vessels transiting within the regulated area must travel at a Minimum Safe Speed.

Discussion of Rule

This temporary rule is necessary to accommodate the changes by the

sponsor to the Annual Greater Jacksonville Kingfish Tournament. The regulated area found in 33 CFR 100.710 paragraph (a) will be revised to reflect the new eastern boundary set at Lighted Buoy 10 (LLNR 2190) at approximate position 30–24.376N, 081–24.998W. The tournament date found in paragraph (c) will reflect the new tournament date set for the second full week after July 4th (July 17 through July 22, 2006). Additionally, a new paragraph (b) will be added to define "Minimum Safe Speed". "Minimum Safe Speed" is the new speed restriction which will replace the current "No Wake Speed".

Vessels transiting within the regulated area must travel at a Minimum Safe Speed. The regulated area is needed to control vessel traffic during the event to enhance the safety of participants and transiting vessels.

Regulatory Evaluation

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

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

Small Entities

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

The Coast Guard certifies under 5 U.S.C. 605(b) that this rule would not have a significant economic impact on a substantial number of small entities because the regulation only requires that vessels operate at a minimum safe speed within the zone, and does not prohibit any vessel or person from entering the zone.

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 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 ENS Kira Peterson Sector Jacksonville Prevention Department, at (904) 232–2640, Ext. 108.

Collection of Information

This 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 rule under that Order and have determined that it does not have implications for federalism.

Unfunded Mandates Reform Act

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

Taking of Private Property

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

Civil Justice Reform

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

Protection of Children

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

Indian Tribal Governments

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

Energy Effects

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

Technical Standards

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

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

Environment

We have analyzed this rule under Commandant Instruction M16475.lD,

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.

Under figure 2–1, paragraph (34)(h), of the Instruction, an "Environmental Analysis Check List" is not required for this rule.

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.

§ 100.710 [Suspended]

■ 2. From July 17 to 22, 2006, suspend § 100.710.

■ 3. From July 17 to 22, 2006, add a new temporary § 100.T07–108 to read as follows:

§ 100.T07–108 Annual Greater Jacksonville Kingfish Tournament; Jacksonville, Florida.

(a) *Regulated Area.* A regulated area is established for the waters of the St. Johns River lying between an eastern boundary of the St. Johns River Lighted Buoy 10 (LLNR 2190) in approximate position 30–24.376N, 081–24.998W, and the western boundary formed by Lighted Buoy 25 (LLNR 7305) in approximate position 30–23.40N, 081–28.26W, and Short Cut Light 26 (LLNR 7130) in approximate position 30–23.46N, 081–28.16W with the northern and southern boundaries formed by the banks of the St. Johns and extended north from the boundary formed by the St. Johns River and the Intracoastal Waterway, Sisters Creek, to Lighted Buoy 83 (LLNR 38330) on the Intracoastal Waterway.

(b) *Definition.* The following definition applies to this section:

Minimum Safe Speed means the speed at which a vessel proceeds when it is fully off plane, completely settled in the water and not creating excessive wake. Due to the different speeds at which vessels of different sizes and configurations may travel while in compliance with this definition, no specific speed is assigned to minimum safe speed. In no instance should minimum safe speed be interpreted as a speed less than that required for a particular vessel to maintain steerageway. A vessel is not proceeding at minimum safe speed if it is:

(1) On a plane;

(2) In the process of coming up onto or coming off a plane; or

(3) Creating an excessive wake.

(c) *Regulations.* Vessels operating in the regulated area must operate at Minimum Safe Speed.

(d) *Enforcement Period.* This section will be enforced from 5 a.m. to 10 p.m. on July 17 to July 22, 2006.

Dated: June 12, 2006.

D.W. Kunkel,

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

[FR Doc. E6–10585 Filed 7–13–06; 8:45 am]

BILLING CODE 4910–15–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[RI–44–1222c; FRL–8185–1]

Approval and Promulgation of Air Quality Implementation Plans; Rhode Island Update to Materials Incorporated by Reference

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule; Notice of administrative change.

SUMMARY: EPA is publishing this action to provide the public with notice of the update to the Rhode Island State Implementation Plan (SIP) compilation. In particular, materials submitted by Rhode Island that are incorporated by reference (IBR) into the Rhode Island SIP are being updated to reflect EPA-approved revisions to Rhode Island's SIP that have occurred since the last update. In this action, EPA is also notifying the public of the correction of typographical errors within the table in the regulations, and modification of the **Federal Register** citations to reflect the first page of the applicable **Federal Register** document.

DATES: This action is effective July 14, 2006.

ADDRESSES: SIP materials which are incorporated by reference into 40 CFR part 52 are available for inspection at the following locations: Environmental Protection Agency, New England Regional Office (Region 1), One Congress Street, Suite 1100, Boston, MA 02114–2023; the Air and Radiation Docket and Information Center, U.S. Environmental Protection Agency, 1301 Constitution Avenue NW., Room B–108, Washington, DC 20460; or the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call 202–741–6030, or go to: *http://www.archives.gov/federal_register/code_of_federal_regulations/ibr_locations.html.*

FOR FURTHER INFORMATION CONTACT: Mr. Donald Cooke, Environmental Scientist, at the above EPA New England Region address or at (617) 918–1668 or by e-mail at *cooke.donald@epa.gov.*

SUPPLEMENTARY INFORMATION: The State Implementation Plan (SIP) is a living document which the State can revise as necessary to address its unique air pollution problems. Therefore, EPA from time to time must take action on SIP revisions containing new and/or revised regulations as being part of the SIP. On May 22, 1997, (62 FR 27968), EPA revised the procedures for incorporation by reference (IBR) federally-approved SIPs, as a result of consultations between EPA and the Office of Federal Register (OFR). The description of the revised SIP document, IBR procedures and "Identification of plan" format are discussed in further detail in the May 22, 1997 **Federal Register** document. On August 9, 1999 (64 FR 43083), EPA published a **Federal Register** beginning the new IBR procedure for Rhode Island. In this document, EPA is doing the following:

1. Announcing the update to the Rhode Island IBR material as of June 2, 2006.

2. Making a correction in the table to § 52.2070(c), nineteenth entry "Air Pollution Control Regulation 19."—Explanations column, corrected reference to Air Pollution Control Regulation 35, Control of VOCs and Volatile Hazardous Air ants from Wood Products Manufacturing Operations.

3. Making a correction in the table to § 52.2070(c), twentieth entry "Air Pollution Control Regulation 21."—Explanations column, replace the word "on" with the word "of" in the third sentence.

4. Making a correction in the table to § 52.2070(d), second entry "Stanley Bostitch Division, Bostitch Division of Textron."—Explanations column, reinsert the two deleted words, "must meet," at the end of the last sentence.

5. Making a correction in the table to § 52.2070(d), third entry "Keene

Corporation, East Providence, RI (A.H. File No. 85–10–AP).''—The correct **Federal Register** citation is August 31, 1987, (52 FR 32793).

6. Making a correction in the table to § 52.2070(d), fourth entry ''Tech Industries.''—Explanations column, replace closing parenthesis with closing bracket in the first sentence.

7. Making a correction in the table to § 52.2070(e), first entry ''Notice of public hearing.''—The correct **Federal Register** citation is June 15, 1972, (37 FR 11914).

8. Making a correction in the table to § 52.2070(e), thirteenth entry ''Letter from RI DEM submitting revisions.''—Explanation column, replace States' (plural, possessive) with State's (singular, possessive).

9. Making a correction in the table to § 52.2070(e), fourteenth entry ''Letter from RI DEM submitting revisions—Rhode Island's 15 Percent Plan and Contingency Plan.''—Explanation column, last paragraph modified to reflect EPA's disapproval of portions of these SIP submissions, were corrected by State's September 21, 1998 SIP revisions.

10. Insert a new entry in the table to § 52.2070(e), directly following the fourteenth entry ''Letter from RI DEM submitting revisions—Rhode Island's 15 Percent Plan and Contingency Plan.''—This new entry entitled ''Revisions to the state Implementation Plan submitted by the Rhode Island Department of Environmental Management on September 21, 1998'' was submitted September 21, 1998, and addressed in a December 8, 1998 **Federal Register** (63 FR 67594). This entry reflects EPA's approval of portions of 15 Percent Plan and Contingency Plan not approved in the entry immediately before.

11. Correcting typographical errors listed in § 52.2070(c), (d) and (e) tables.—Modifying the **Federal Register** citation to reflect the beginning page of the preamble as opposed to the page of the regulatory text.

EPA has determined that today's rule falls under the ''good cause'' exemption in section 553(b)(3)(B) of the Administrative Procedures Act (APA) which, upon finding ''good cause,'' authorizes agencies to dispense with public participation and section 553(d)(3) which allows an agency to make a rule effective immediately (thereby avoiding the 30-day delayed effective date otherwise provided for in the APA). Today's rule simply codifies provisions which are already in effect as a matter of law in Federal and approved State programs, and corrects typographical errors. Under section 553 of the APA, an agency may find good cause where procedures are ''impractical, unnecessary, or contrary to the public interest.'' Public comment is ''unnecessary'' and ''contrary to the public interest'' since the codification (and typographical corrections) only reflects existing law. Immediate notice in the CFR benefits the public by removing outdated citations and incorrect chart entries.

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. 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).

C. Petitions for Judicial Review

EPA has also determined that the provisions of section 307(b)(1) of the Clean Air Act, pertaining to petitions for judicial review are not applicable to this action. Prior EPA rulemaking actions for each individual component of the Rhode Island SIP compilations had previously afforded interested parties the opportunity to file a petition for judicial review in the United States Court of Appeals for the appropriate circuit within 60 days of such rulemaking action. Thus, EPA sees no need in this action to reopen the 60-day period for filing such petitions for judicial review for this ''Identification of

plan" reorganization update action for Rhode Island.

List of Subjects in 40 CFR Part 52

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

Dated: June 7, 2006.

Robert W. Varney,

Regional Administrator, EPA New England.

■ Chapter I, title 40, Code of Federal Regulations, is amended as follows:

PART 52—[AMENDED]

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

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

Subpart OO—Rhode Island

■ 2. Section 52.2070 is amended by revising paragraphs (b), (c), (d) and (e) to read as follows:

§ 52.2070 Identification of plan.

* * * * *

(b) *Incorporation by reference.* (1) Material listed in paragraph (c) and (d) of this section with an EPA approval date prior to June 2, 2006, was approved for incorporation by reference by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Material is incorporated as it exists on the date of the approval, and notice of any change in the material will be published in the **Federal Register.** Entries in paragraphs (c) and (d) of this section with EPA approval dates after June 2, 2006, will be incorporated by reference in the next update to the SIP compilation.

(2) EPA Region 1 certifies that the rules/regulations provided by EPA in the SIP compilation at the addresses in paragraph (b)(3) of this section are an exact duplicate of the officially promulgated state rules/regulations which have been approved as part of the State Implementation Plan as of June 2, 2006.

(3) Copies of the materials incorporated by reference may be inspected at the New England Regional Office of EPA at One Congress Street, Suite 1100, Boston, MA 02114–2023; the EPA, Air and Radiation Docket and Information Center, Air Docket (Mail Code 6102T), Room B–108, 1301 Constitution Avenue, NW., Washington, DC 20460 and the National Archives and Records Administration. For information on the availability of this material at NARA, call 202–741–6030, or go to: *http://www.archives.gov/federal_register/code_of_federal_regulations/ibr_locations.html.*

(c) EPA approved regulations.

EPA Approved Rhode Island Regulations

State citation	Title/subject	State effective date	EPA approval date	Explanations
Air Pollution Control Regulation 1.	Visible emissions	02/22/77	05/07/81, 46 FR 25446	
Air Pollution Control Regulation 2.	Handling of soft coal	02/22/77	05/07/81, 46 FR 25446	
Air Pollution Control Regulation 3.	Particulate emissions from industrial processes.	02/22/77	05/07/81, 46 FR 25446	
Air Pollution Control Regulation 4.	Open fires	02/22/77	05/07/81, 46 FR 25446	
Air Pollution Control Regulation 5.	Fugitive dust.	02/22/77	05/07/81, 46 FR 25446	
Air Pollution Control Regulation 6.	Continuous emission monitors.	11/22/89	09/30/91, 56 FR 49414	RI Air Pollution Control Regulation Number 6 is also referred to by the title "Opacity Monitors".
Air Pollution Control Regulation 7.	Emission of air contaminants detrimental to persons or property.	07/19/77	05/07/81, 46 FR 25446	
Air Pollution Control Regulation 8.	Sulfur content of fuels	05/02/85	01/08/86, 51 FR 755	
Air Pollution Control Regulation 9.	Air pollution control permits.	04/08/96	12/02/99, 64 FR 67495	Definition of VOC revised. All of No. 9 is approved with the exception of Sections 9.13, 9.14, 9.15, and Appendix A which Rhode Island did not submit as part of SIP revision.
Air Pollution Control Regulation 10.	Air pollution episodes ..	02/22/77	05/07/81, 46 FR 25446	
Air Pollution Control Regulation 11.	Petroleum liquids marketing and storage.	01/31/93	12/17/93, 58 FR 65930	
Air Pollution Control Regulation 12.	Incinerators	04/22/81	04/26/82, 47 FR 17816	
Air Pollution Control Regulation 13.	Particulate emissions from fossil fuel fired steam or hot water generating units.	10/05/82	03/29/83, 48 FR 13026	
Air Pollution Control Regulation 14.	Record keeping and reporting.	04/08/96	12/02/99, 64 FR 67495	Definition of VOC revised
Air Pollution Control Regulation 15.	Control of organic solvent emissions.	04/08/96	12/02/99, 64 FR 67495	Limited approval. Applicability threshold decreased to 50 tpy. Definition of VOC revised. All of No. 15 is approved with the except of 15.2.2 which Rhode Island did not submit as part of the SIP revision.

EPA APPROVED RHODE ISLAND REGULATIONS—Continued

State citation	Title/subject	State effective date	EPA approval date	Explanations
Air Pollution Control Regulation 16.	Operation of air pollution control system.	02/22/77	05/07/81, 46 FR 25446	
Air Pollution Control Regulation 17.	Odors	02/22/77	05/07/81, 46 FR 25446	
Air Pollution Control Regulation 18.	Control of Emissions from Organic Solvent Cleaning.	Withdrawn	12/02/99, 64 FR 67495	No. 18 is superseded by No. 36.
Air Pollution Control Regulation 19.	Control of Volatile Organic Compounds from Surface Coating Operations.	03/07/96	12/02/99, 64 FR 67495	Definition of VOC revised. Wood products requirements deleted because state adopted new Regulation No. 35 which addresses wood products. Except 19.2.2.
Air Pollution Control Regulation 21.	Control of Volatile Organic Compounds from Printing Operations.	04/08/96	12/02/99, 64 FR 67495	Applicability threshold decreased to 50 tpy. Definition of VOC revised. All of No. 21 is approved with the exception of Section 21.2.3 which the State did not submit as part of the SIP revision.
Air Pollution Control Regulation 25.	Control of VOC Emissions from Cutback and Emulsified Asphalt.	04/08/96	12/02/99, 64 FR 67495	Definition of VOC revised. All of No. 25 is approved with the exception of Section 25.2.2 which the state did not submit as part of the SIP revision.
Air Pollution Control Regulation 26.	Control of Organic Solvent Emissions from Manufacture of Synthesized Pharmaceutical Products.	04/08/96	12/02/99, 64 FR 67495	Definition of VOC revised. All of No. 26 is approved with the exception of 26.2.3 which the state did not submit as part of the SIP revision.
Air Pollution Control Regulation 27.	Control of nitrogen oxide emissions.	01/16/96	09/02/97, 62 FR 46202	
Air Pollution Control Regulation 29.3.	Emissions Caps	04/28/95	03/22/96, 61 FR 11731	This rule limits a source's potential to emit, therefore avoiding RACT, Title V Operating Permit.
Air Pollution Control Regulation 30.	Control of VOCs from Automotive Refinishing Operations.	04/08/96	12/02/99, 64 FR 67495	Definition of VOC revised. All of No. 30 is approved with the exception of Section 30.2.2 which the state did not submit as part of the SIP revision.
Air Pollution Control Regulation 31.	Control of VOCs from Commercial and Consumer Products.	04/08/96	12/02/99, 64 FR 67495	Definition of VOC revised. All of No. 31 is approved with the exception of Section 31.2.2 which the state did not submit as part of the SIP revision.
Air Pollution Control Regulation 32.	Control of VOCs from Marine Vessel Loading Operations.	04/08/96	12/02/99, 64 FR 67495	Definition of VOC revised. All of No. 32 is approved with the exception of Section 32.2.2 which the state did not submit as part of the SIP revision.
Air Pollution Control Regulation 33.	Control of VOCs from Architectural Coatings and Industrial Maintenance Coatings.	04/08/96	12/02/99, 64 FR 67495	Definition of VOC revised. All of No. 33 is approved with the exception of Section 33.2.2 which the state did not submit as part of the SIP revision.
Air Pollution Control Regulation 34.	Rhode Island Motor Vehicle Inspection/ Maintenance Program.	03/30/00	02/09/01, 66 FR 9661	Department of Environmental Management regulation containing I/M standards.
Air Pollution Control Regulation 35.	Control of VOCs and Volatile Hazardous Air Pollutants from Wood Products Manufacturing Operations.	07/07/96	12/02/99, 64 FR 67495	All of No. 35 is approved with the exception of Section 35.2.3 which the state did not submit as part of the SIP revision.
Air Pollution Control Regulation 36.	Control of Emissions from Organic Solvent Cleaning.	04/18/96	12/02/99, 64 FR 67495	All of No. 36 is approved with the exception of Section 36.2.2 which the state did not submit as part of the SIP revision.
Air Pollution Control Regulation 37.	Rhode Island's Low Emission Vehicle Program.	12/07/99	03/09/00, 65 FR 12476	Includes National LEV as a compliance alternative.
Air Pollution Control Regulation 38.	Nitrogen Oxides Allowance Program.	06/10/98	06/02/99, 64 FR 29567	
Air Pollution Control Regulation 41.	NO_x Budget Trading Program.	10/01/99	12/27/00, 65 FR 81743	
Rhode Island Motor Vehicle Safety and Emissions Control Regulation No. 1.	Rhode Island Motor Vehicle Inspection/ Maintenance Program.	01/31/01	02/09/01, 66 FR 9661	Department of Administration regulations for the I/M program.

(d) EPA-approved State Source specific requirements.

EPA—APPROVED RHODE ISLAND SOURCE SPECIFIC REQUIREMENTS

Name of source	Permit No.	State effective date	EPA approval date	Explanations
Narragansett Electric Company, South Street Station in Providence.	A.H. File No. 83–12–AP	08/29/83	07/27/84, 49 FR 30177.	Revisions to Air Pollution Control Regulation 8, "Sulfur Content of Fuels," specifying maximum sulfur-in-coal limits (1.21 lbs/MMBtu on a 30-day rolling average and 2.31 lbs/MMBtu on a 24-hour average). These revisions approve Section 8.3.4, "Large Fuel Burning Devices Using Coal," for South Street Station only.
Stanley Bostitch, Bostitch Division of Textron.	A.H. File No. 85–8–AP	06/06/85	12/11/86, 51 FR 44604.	RI DEM and Bostitch administrative consent agreement effective 6/6/85. Requires Bostitch to reformulate certain solvent-based coatings to low/no solvent formulation by 12/31/86. Also addendum dated 9/20/85 defining emission limitations reformulated coatings must meet. (A) An administrative consent agreement between the RI DEM and Bostitch Division of Textron. (B) A letter to Bostitch Division of Textron from the RI DEM dated September 20, 1985 which serves as an addendum to the consent agreement. The addendum defines the emission limitations which Bostitch's Division of Textron reformulated coatings must meet.
Keene Corporation, East Providence, RI.	A.H. File No. 85–10–AP	09/12/85	08/31/87, 52 FR 32793.	RI DEM and Keene Corporation administrative consent agreement effective 9/12/85. Granting final compliance date extension for the control of organic solvent emissions from sixpaper coating lines. (A) Letter from the RI DEM dated November 5, 1985 submitting revisions to the RI SIP. (B) An administrative consent agreement between the RI DEM and Keene Corporation.
Tech Industries	File No. 86–12–AP	11/24/87	03/10/89, 54 FR 10145.	RI DEM and Tech Industries original administrative consent agreement (86–12–AP) [except for provisions 7 and 8] effective 6/12/86, an addendum effective 11/24/87, defining and imposing reasonably available control technology to control volatile organic compounds. (A) An administrative consent agreement (86–12–AP), except for Provisions 7 and 8, between the RI DEM and Tech Industries effective June 12, 1986. (B) An addendum to the administrative consent agreement (86–12–AP) between the RI DEM and Tech Industries. The addendum was effective November 24, 1987. (C) Letters dated May 6, 1987; October 15, 1987; and January 4, 1988 submitted to the EPA by the RI DEM.
University of Rhode Island ...	A.P. File No. 87–5–AP	03/17/87	09/19/89, 54 FR 38517.	Revisions to the SIP submitted by the RI DEM on April 28, 1989, approving a renewal of a sulfur dioxide bubble for the University of Rhode Island.
University of Rhode Island ...	File No. 95–50–AP	03/12/96	09/02/97, 62 FR 46202.	An administrative consent agreement between RIDEM and University of Rhode Island, Alternative NO_X RACT (RI Regulation 27.4.8)
Providence Metallizing in Pawtucket, Rhode Island.	File No. 87–2–AP	04/24/90	09/06/90, 55 FR 36635.	Define and impose RACT to control volatile organic compound emissions. (A) Letter from the RIDEM dated April 26, 1990, submitting a revision to the RI SIP. (B) An administrative consent agreement (87–2–AP) between the RI DEM and Providence Metallizing effective July 24, 1987.

EPA—APPROVED RHODE ISLAND SOURCE SPECIFIC REQUIREMENTS—Continued

Name of source	Permit No.	State effective date	EPA approval date	Explanations
				(C) An amendment to the administrative consent agreement (87–2–AP) between the RI DEM and Providence Metallizing effective May 4, 1989. (D) An addendum to the administrative consent agreement (87–2–AP) between the RI DEM and Providence Metallizing effective April 24, 1990.
Tillotson-Pearson in Warren, Rhode Island.	File No. 90–1–AP	06/05/90	08/31/90, 55 FR 35623.	Revisions to the SIP submitted by the RI DEM on May 24, 1990, to define and impose RACT to control volatile organic compound emissions. (A) Letter from the RI DEM dated May 24, 1990 submitting a revision to the RI SIP. (B) An Administrative consent agreement (90–1–AP) between the RI DEM and Tillotson-Pearson.
Rhode Island Hospital	File No. 95–14–AP	11/27/95	09/02/97, 62 FR 46202.	Alternative NO_X RACT. An administrative consent agreement between the RI DEM and RI Hospital.
Osram Sylvania Incorporated	File No. 96–06–AP Air Pollution Permit Approval, No. 1350	09/04/96	09/02/97, 62 FR 46202.	Alternative NO_X RACT. (A) An Administrative consent agreement between the RI DEM and Osram Sylvania Incorporated, file no. 96–06–AP, effective September 4, 1996. (B) An air pollution Permit approval, no. 1350 Osram Sylvania Incorporated issued by RIDEM effective May 14, 1996.
Algonquin Gas Transmission Company.	File No. 95–52–AP	12/05/95	09/02/97, 62 FR 46202.	Alternative NO_X RACT. (A) Letter from the RI DEM dated September 17, 1996 submitting a revision to the RI SIP. (B) An administrative consent agreement between RIDEM and Algonquin Gas Transmission Company, effective on December 5, 1995.
Bradford Dyeing Association, Inc.	File No. 95–28–AP	11/17/95	09/02/97, 62 FR 46202.	Alternative NO_X RACT. An administrative consent agreement between RIDEM and Bradford Dyeing Association, Inc.
Hoechst Celanese Corporation.	File No. 95–62–AP	11/20/95	09/02/97, 62 FR 46202.	Alternative NO_X RACT. An administrative consent agreement between RIDEM and Hoechst Celanese Corporation.
Naval Education and Training Center in Newport.	File No. 96–07–AP	03/04/96	09/02/97, 62 FR 46202.	Alternative NO_X RACT. An administrative consent agreement between RIDEM and Naval Education and Training Center in Newport.
Rhode Island Economic Development.	File No. 96–04–AP	09/02/97	06/02/99, 64 FR 29567.	Alternative NO_X RACT. A consent agreement between RIDEM and Rhode Island Economic Development Corporation's Central Heating Plant in North Kingstown.
Cranston Print Works	A.H. File No. 95–30–AP	12/19/95	12/02/99, 64 FR 67495.	Non-CTG VOC RACT Determination.
CCL Custom Manufacturing	A.H. File No. 97–02–AP	04/10/97 10/27/99	12/02/99, 64 FR 67495.	Non-CTG VOC RACT Determination.
Victory Finishing Technologies.	A.H. File No. 96–05–AP	05/24/96	12/02/99, 64 FR 67495.	Non-CTG VOC RACT Determination.
Quality Spray and Stenciling	A.H. File No. 97–04–AP	10/21/97 07/13/99	12/02/99, 64 FR 67495.	Non-CTG VOC RACT Determination.
Guild Music	A.H. File No. 95–65–AP	11/09/95	12/02/99, 64 FR 67495.	Non-CTG VOC RACT Determination.

(e) Nonregulatory.

RHODE ISLAND NON REGULATORY

Name of non regulatory SIP provision	Applicable geographic or nonattainment area	State submittal date/effective date	EPA approved date	Explanations
Notice of public hearing	Statewide	Submitted 02/09/72	06/15/72, 37 FR 11914	Proposed Implementation Plan Regulations, RI Department of Health.
Miscellaneous non-regulatory additions to the plan correcting minor deficiencies.	Statewide	Submitted 02/29/72	07/27/72, 37 FR 15080	Approval and promulgation of Implementation Plan Miscellaneous Amendments, RI Department of Health.
Compliance schedules	Statewide	Submitted 04/24/73	06/20/73, 38 FR 16144	Submitted by RI Department of Health.
AQMA identifications for the State of Rhode Island.	Statewide	Submitted 04/11/74	04/29/75, 40 FR 18726	Submitted by RI Department of Health.
Letter identifying Metropolitan Providence as an AQMA.	Metropolitan Providence	Submitted 09/06/74	04/29/75, 40 FR 18726	Submitted by the Governor.
A comprehensive air quality monitoring plan, intended to meet requirements of 40 CFR part 58.	Statewide	Submitted 01/08/80	01/15/81, 46 FR 3516	Submitted by the RI Department of Environmental Management Director.
Attainment plans to meet the requirements of Part D of the Clean Air Act, as amended in 1977. Included are plans to attain the carbon monoxide and ozone standards and information allowing for the redesignation of Providence to non-attainment for the primary TSP standard based on new data. A program for the review of construction and operation of new and modified major stationary sources of pollution in non-attainment areas. Certain miscellaneous provisions unrelated to Part D are also included.	Statewide	Submitted 05/14/79, 06/11/79, 08/13/79, 01/08/80, 01/24/80, 03/10/80, 03/31/80, 04/21/80, 06/06/80, 06/13/80, 08/20/80, 11/14/80, 03/04/81, 03/05/81 and 04/16/81.	05/07/81, 46 FR 25446	Attainment plans to meet the requirements of Part D of the Clean Air Act, as amended in 1977.
Section VI, Part II, "Stationary Source Permitting and Enforcement" of the narrative.	Statewide	Submitted 05/14/82; and 07/01/82.	06/28/83, 48 FR 29690	As submitted by RI DEM on May 14, 1982 and July 1, 1982 for review of new major sources and major modifications in nonattainment areas. Also included are revisions to add rules for banking emission reductions.
Revisions to the Rhode Island State Implementation Plan for attainment of the primary National Ambient Air Quality Standard for ozone. 1982 Ozone Attainment Plan.	Statewide	Submitted 05/14/82; 07/01/82; 07/07/82; 10/04/82; and 03/02/83.	07/06/83, 48 FR 31026	Submitted by the Department of Environmental Management.
Revisions to attain and maintain the lead NAAQS.	Statewide	Submitted 07/07/83	09/15/83, 48 FR 41405	Submitted by the Department of Environmental Management.

RHODE ISLAND NON REGULATORY—Continued

Name of non regulatory SIP provision	Applicable geographic or nonattainment area	State submittal date/effective date	EPA approved date	Explanations
Section VI, Part II of the associated narrative of the RI SIP.	Statewide	Submitted 02/06/84; 01/27/84; and 06/06/84.	07/06/84, 49 FR 27749	To incorporate the requirements for the Prevention of Significant Deterioration of 40 CFR 51.24, permitting major stationary sources of lead and other miscellaneous changes.
Letter from RI DEM submitting an amendment to the RI State Implementation Plan. Section VII of the RI SIP Ambient Air Quality Monitoring	Statewide	Submitted 01/14/94; and 06/14/94.	10/30/96, 61 FR 55897	A revision to the RI SIP regarding ozone monitoring. RI will modify its SLAMS and its NAMS monitoring systems to include a PAMS network design and establish monitoring sites. The State's SIP revision satisfies 40 CFR 58.20(f) PAMS requirements.
Letter from RI DEM submitting revisions.	Statewide	Submitted 03/15/94	10/30/96, 61 FR 55897	Revision to the RI SIP regarding the State's Contingency Plan.
Letter from RI DEM submitting revision—Rhode Island's 15 Percent Plan and Contingency Plan.	Statewide	Submitted 03/15/94.	04/17/97, 62 FR 18712	The revisions consist of the State's 15 Percent Plan and Contingency Plan. EPA approved only the following portions of these submittals: 15 Percent Plan—the EPA approved the calculation of the required emission reductions, and the emission reduction credit claimed from surface coating, printing operations, marine vessel loading, plant closures (0.79 tons per day approved out of 0.84 claimed), cutback asphalt, auto refinishing, stage II, reformulated gas in on-road and off-road engines, and tier I motor vehicle controls. Contingency Plan—the EPA approved the calculation of the required emission reduction, and a portion of the emission reduction credits claimed from Consumer and Commercial products (1.1 tons per day approved out of 1.9 tons claimed), and architectural and industrial maintenance (AIM) coatings (1.9 tons per day approved out of 2.4 tons claimed). EPA's disapproval of portions of these SIP submissions were corrected by State's September 21, 1998 SIP revisions.

RHODE ISLAND NON REGULATORY—Continued

Name of non regulatory SIP provision	Applicable geographic or nonattainment area	State submittal date/effective date	EPA approved date	Explanations
Revisions to the State Implementation Plan submitted by the Rhode Island Department of Environmental Management on September 21, 1998.	Statewide	Submitted 09/21/98	12/08/98, 63 FR 67594	The revisions consist of the State's 15 Percent Plan and Contingency Plan. The EPA is approving the calculation of the required emission reductions, and the emission reduction credit claimed from surface coating operations, printing operations, plant closures, cutback asphalt, synthetic pharmaceutical manufacturing, automobile refinishing, consumer and commercial products, architectural and industrial maintenance coatings, stage II vapor recovery, reformulated gasoline in on-road and off-road engines, tier I motor vehicle controls, and low emitting vehicles. EPA is taking no action at this time on the emission reduction credit claim made for the Rhode Island automobile inspection and maintenance program.
Letter from RI DEM submitting revision for Clean Fuel Fleet Substitution Plan.	Providence (all of Rhode Island) nonattainment area.	10/05/94	03/09/00, 65 FR 12474.	
Letter outlining commitment to National LEV.	Statewide	02/22/99	03/09/00, 65 FR 12476	Includes details of the State's commitment to National LEV.
Negative Declaration for Synthetic Organic Chemical Manufacturing Industry (SOCMI) Distillation and Reactor Processes Control Techniques Guidelines Categories.	Statewide	Submitted 04/05/95	12/02/99, 64 FR 67495.	
October 1, 1999, letter from Rhode Island Department of Environmental Management.	Statewide	Submitted 10/01/99	12/27/00, 65 FR 81743	Submitted Air Pollution Control Regulation No. 14, "NO_X Budget Trading Program," and the "NO_X State Implementation Plan (SIP) Call Narrative."
"NO_X State Implementation Plan (SIP) Call Narrative," September 22, 1999.	Statewide	Submitted 10/01/99	12/27/00, 65 FR 81743.	
November 9, 1999, letter from Rhode Island Department of Environmental Management.	Statewide	Submitted 11/09/99	12/27/00, 65 FR 81743	Stating RI's intent to comply with applicable reporting requirements.
Negative Declaration for Aerospace Coating Operations Control Techniques Guideline Category.	Statewide	Submitted 03/28/00	07/10/00, 65 FR 42290.	

RHODE ISLAND NON REGULATORY—Continued

Name of non regulatory SIP provision	Applicable geographic or nonattainment area	State submittal date/effective date	EPA approved date	Explanations
September 20, 2001 letter from Rhode Island Department of Environmental Management.	Statewide	Submitted 09/20/01	06/20/03, 68 FR 36921	Submitting the "NO_X State Implementation Plan (SIP) Call Narrative," revised September 2001.
NO_X State Implementation Plan (SIP) Call Narrative, revised September 2001.	Statewide	Submitted 09/20/01	06/20/03, 68 FR 36921.	

[FR Doc. E6–11108 Filed 7–13–06; 8:45 am]
BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 52 and 81

[EPA–R03–OAR–2005–0480; FRL–8197–1]

Approval and Promulgation of Air Quality Implementation Plans; West Virginia; Redesignation of the City of Weirton PM–10 Nonattainment Area to Attainment and Approval of the Maintenance Plan

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA is approving a redesignation request and a State Implementation Plan (SIP) revision submitted by the State of West Virginia. This revision requests that EPA redesignate the Weirton nonattainment area (Weirton Area) to attainment for the national ambient air quality standards (NAAQS) for particulate matter with an aerodynamic diameter less than or equal to a nominal 10 micrometers (PM–10), and concurrently requests approval of a limited maintenance plan (LMP) as a revision to the West Virginia State Implementation (SIP). In this action, EPA is approving the State's request to redesignate the area from nonattainment to attainment, as well as approving the LMP for the Weirton Area.

DATES: *Effective Date:* This final rule is effective on August 14, 2006.

ADDRESSES: EPA has established a docket for this action under Docket ID Number EPA–R03–OAR–2005–0480. All documents in the docket are listed in the *www.regulations.gov* Web site. Publicly available docket materials are available either electronically through *www.regulations.gov* or in hard copy 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. Copies of the State submittal are available at the West Virginia Department of Environmental Protection, Division of Air Quality, 601 57th Street, SE., Charleston, WV 25304.

FOR FURTHER INFORMATION CONTACT: Linda Miller, (215) 814–2068, or by e-mail at *miller.linda@epa.gov*.

SUPPLEMENTARY INFORMATION:

I. Background

On May 11, 2006 (71 FR 27440), EPA published a notice of proposed rulemaking (NPR) for the State of West Virginia. The NPR proposed approval of the LMP for the Weirton Area in West Virginia and the State's request to redesignate the area from nonattainment to attainment. EPA also proposed to determine that, because the Weirton Area has continued to attain the PM–10 NAAQS, certain attainment demonstration requirements, along with other related requirements of the CAA, are not applicable to the Weirton Area. West Virginia submitted a request to redesignate the Weirton Area to attainment for PM–10 and a SIP submittal for the related maintenance plan on May 24, 2004.

II. Summary of SIP Revision

On May 16, 2001 (66 FR 27034), EPA promulgated a final rule entitled, "Determination of Attainment of the NAAQS for PM–10 in the Weirton, West Virginia Nonattainment Area" finding that the Weirton PM–10 nonattainment had attained the NAAQS for PM–10 by its applicable December 31, 2000 attainment date. In order to be redesignated from nonattainment to attainment, West Virginia requested, in a letter dated October 14, 2003, that EPA apply its clean data policy to the Weirton Area. The redesignation request, dated May 24, 2004, included the associated SIP submittal of the maintenance plan for the Weirton area.

Other specific requirements of the request for redesignation and the associated rationale and the rationale for EPA's proposed action are explained in the NPR and will not be restated here. EPA received one comment in support of the proposed approval.

III. Final Action

EPA is approving the PM–10 redesignation request for the Weirton Area, and also approving the associated limited maintenance plan as a revision to the West Virginia SIP.

IV. 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 requirement, 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 Clean Air Act, petitions for judicial review of this action to approve the redesignation request for the Weirton nonattainment area and approve the associated maintenance plan as a revision to the SIP must be filed in the United States Court of Appeals for the appropriate circuit by September 12, 2006. 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

40 CFR Part 52

Environmental protection, Air pollution control, Intergovernmental relations, Reporting and Recordkeeping requirements, Particulate matter.

40 CFR Part 81

Air Pollution Control, National parks, Wilderness areas.

Dated: July 6, 2006.

William T. Wisniewski,

Acting Regional Administrator, Region III.

■ 40 CFR Parts 52 and 81 are amended as follows:

PART 52—[AMENDED]

■ 1. The authority citation for 40 CFR part 52 continues to read as follows:

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

Subpart XX—West Virginia

■ 2. In § 52.2520, the table in paragraph (e) is amended by adding an entry for the City of Weirton PM–10 Maintenance Plan at the end of the table to read as follows:

§ 52.2520 Identification of plan.

* * * * *

(e) * * *

Name of non-regulatory SIP revision	Applicable geographic area	State submittal date	EPA approval date	Additional explanation
*	*	*	*	*
City of Weirton PM–10 Maintenance Plan.	Hancock and Brooke Counties (part)—the City of Weirton.	4/24/04	7/14/06 [*Insert page number where the document begins*].	Limited maintenance plan.

PART 81—[AMENDED]

Subpart C—Section 107 Attainment Status Designations

■ 1. The authority citation for Part 81 continues to read as follows:

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

■ 2. In § 81.349, the table for "West Virginia—PM–10" is amended by revising the entry for Hancock and Brooke Counties (part): The City of Weirton to read as follows:

§ 81.349 West Virginia.

* * * * *

WEST VIRGINIA—PM–10

Designated Area	Designation		Classification	
	Date	Type	Date	Type
*	*	*	*	*
Hancock and Brooke Counties (part): The City of Weirton	9/12/06	Attainment.		

WEST VIRGINIA—PM–10—Continued

Designated Area	Designation		Classification	
	Date	Type	Date	Type
* * * * * * *				

* * * * *

[FR Doc. E6–11107 Filed 7–13–06; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

44 CFR Part 206

[Docket ID FEMA–2006–0028]

RIN 1660–AA45

Public Assistance Eligibility

AGENCY: Federal Emergency Management Agency (FEMA), Department of Homeland Security (DHS).

ACTION: Interim rule with request for comments.

SUMMARY: This interim rule will allow FEMA to reimburse State, Tribal and local governments within an area designated under a Presidential emergency or major disaster declaration for sheltering and evacuation costs incurred outside of the designated area. Under this rule, FEMA may also directly provide sheltering and evacuation assistance outside of the designated area.

DATES: *Effective:* This rule is effective July 14, 2006. *Comments:* Comments due on or before September 12, 2006.

ADDRESSES: You may submit comments, identified by Docket ID FEMA–2006–0028, by one of the following methods:

Federal eRulemaking Portal: *http://www.regulations.gov*. Follow the instructions for submitting comments.

E-mail: *FEMA–RULES@dhs.gov*. Include Docket ID FEMA–2006–0028 in the subject line of the message.

Fax: 202–646–4536

Mail/Hand Delivery/Courier: Rules Docket Clerk, Office of General Counsel, Federal Emergency Management Agency, Room 835, 500 C Street, SW., Washington, DC 20472.

Instructions: All Submissions received must include the agency name and Docket ID (if available) for this interim final rule. All comments received will be posted without change to *http://www.regulations.gov*, including any personal information provided. For detailed instructions on submitting comments, see the "Public Participation" heading of the **SUPPLEMENTARY INFORMATION** section of this document.

Docket: For access to the docket to read background documents or comments received, go to the Federal eRulemaking Portal at *http://www.regulations.gov*. Submitted comments may also be inspected at FEMA, Office of General Counsel, 500 C Street, SW., Room 835, Washington, DC 20472.

FOR FURTHER INFORMATION CONTACT: James A. Walke, FEMA, 500 C Street, SW., Washington, DC 20472, or call (202) 646–2751, or e-mail *james.walke@dhs.gov*.

SUPPLEMENTARY INFORMATION:

Public Participation

Interested persons are invited to participate in this rulemaking by submitting written data, views, or arguments on all aspects of the interim rule. FEMA also invites comments that relate to the economic, environmental, or federalism affects that might result from this interim rule. Comments that will provide the most assistance to FEMA in developing these procedures will reference a specific portion of the interim rule, explain the reason for any recommended change, and include data, information, or authority that support such recommended change.

Instructions: All submissions received must include the agency name and Docket ID for this rulemaking. All comments received will be posted without change to *http://www.regulations.gov*, including any personal information provided.

Docket: For access to the docket to read background documents or comments received, go to *http://www.regulations.gov*. Submitted comments may also be inspected at Office of General Counsel, Federal Emergency Management Agency, 500 C Street, SW., Room 835, Washington, DC 20472.

Background

In response to Hurricanes Katrina and Rita in 2005, pre- and post-storm evacuations created a significant need for evacuation and sheltering outside of the counties and States that were initially designated eligible for assistance under the emergency and major disaster declarations. State and local governmental entities outside of the designated areas provided transportation and shelter for evacuees and, as a result, incurred significant costs. However, FEMA's existing regulation required that the eligible work be performed within the designated disaster (or emergency) area. 44 CFR 206.223(a)(2). Therefore, in order for the non-designated State and local governments to recoup their eligible costs, the States were required to request and obtain approval for a separate emergency declaration. Otherwise, there was no mechanism whereby FEMA could provide assistance to those entities that provided evacuation and sheltering services outside the designated areas.

Discussion of Interim Rule

This interim rule implements a change to 44 CFR 206.223(a)(2). This rule will allow FEMA to reimburse for sheltering and evacuation costs incurred outside of the area designated under a Presidential emergency or major disaster declaration, if the costs are otherwise eligible for Public Assistance funding. Under this rule, an eligible applicant (as defined in 44 CFR 206.222) within the designated disaster area may request an entity outside of the designated area to provide evacuation and sheltering services for its citizens. In such circumstances, the entity that provides the evacuation or sheltering services may seek reimbursement under a mutual aid or similar agreement [1] from the eligible applicant within the designated area that requested the services. The eligible applicant will reimburse the providing entity and FEMA will then reimburse the eligible applicant. Alternatively, FEMA may request an entity outside of the designated area to provide evacuation and sheltering services for the affected

[1] Mutual aid agreements where one State or local government reimburses another State or local government for services provided take many forms, including the Emergency Management Assistance Compact, Public Law 104–321.

State or local government within the designated area. In this case, FEMA will directly reimburse the providing entity for eligible costs.

This interim rule will eliminate the requirement that entities, such as States and local governments that provide evacuation and sheltering services outside of the designated areas, request and receive an emergency declaration from the President before they can recoup their eligible costs for those services.

This interim rule will reduce costs and the administrative burden associated with managing Presidential emergency declarations. By eliminating the requirement for an emergency declaration, States will not have to activate the same level of emergency management plans, staff, and resources that are normally required to manage and coordinate operations with FEMA. Furthermore, FEMA will realize cost savings as it will not be required to activate and deploy a Federal Coordinating Officer and the requisite support staff and resources to manage its operations. Finally, FEMA and State governments will avoid the administrative requirements for processing an emergency declaration request or a request to add an area to an existing declaration. States will still have the option of requesting an emergency declaration when the effects of the event create conditions that warrant direct Federal support or assistance to the State providing evacuation and sheltering.

Since hurricane season started on June 1, 2006, and because this rule removes restrictions now in place without adding any new restrictions, this interim rule takes effect immediately. This will allow FEMA to provide assistance for sheltering and evacuation operations, such that the providing entities can be reimbursed while eliminating the requirement that States request an emergency declaration from the President. However, FEMA still seeks comments on this rule, especially from State and local governmental entities that have provided or received evacuation and sheltering services in previously declared disasters and emergencies.

FEMA is also aware of its responsibility to the taxpayers to ensure that this program is operated with the appropriate level of accountability. Therefore, FEMA particularly welcomes comments on whether this interim rule effectively strikes the balance of providing administrative flexibility to State and local governments while safeguarding taxpayer resources.

Administrative Procedure Act

In general, FEMA publishes a rule for public comment before issuing a final rule under the Administrative Procedure Act (APA), 5 U.S.C. 533, and 44 CFR 1.12. However, FEMA is issuing this interim rule immediately, and without prior notice and opportunity to comment pursuant section 5 U.S.C. 553(b). This provision authorizes an agency to issue a rule without prior notice and opportunity to comment when the agency for good cause finds that those procedures are "impracticable, unnecessary, or contrary to the public interest." *Id.* FEMA has determined that delaying implementation of this rule to await public notice and comment is unnecessary, impracticable, and contrary to the public interest for the following reasons:

This interim rule is critically important in preparation for the 2006 hurricane season, which officially started on June 1, 2006. The evacuation and sheltering operations following Hurricanes Katrina and Rita in 2005 clearly demonstrate that FEMA needs the ability to address evacuation and sheltering operations in a manner that eliminates unnecessary costs, administrative requirements, and resource deployment. Furthermore, under this rule emergency declaration requests for evacuation and sheltering are unnecessary, thereby eliminating a significant administrative and procedural burden for State governments and FEMA.

This interim rule will permit those entities that are not located in a designated area to seek reimbursement without having to request an emergency declaration. Any delay in implementing this interim rule could affect the ability to provide these sheltering and evacuation services for the current hurricane season and have a severe impact on the health, safety, and welfare of the citizens of the affected areas. The ability to provide these services could very well be negatively affected because the administrative requirements removed by this rule take extra time to satisfy in situations where time is of the essence. Relieved of this burden, local jurisdictions and the Federal government will be free to direct their resources to more urgent tasks of evacuation and sheltering. Given that it is currently hurricane season, situations requiring such urgent action could arise in a matter of weeks or days, prior to a time when notice and comment rulemaking could be completed.

In accordance with 5 U.S.C. 553(d)(3), FEMA has determined that delaying implementation of this rule to await public notice and comment is unnecessary, impracticable, and contrary to the public interest. Delay is impracticable and contrary to the public interest because hurricane season began on June 1, 2006, and because of the critical nature of providing evacuation and sheltering services. In the event of another catastrophic disaster, resources will be so stressed that freeing up any resources to use toward delivering services as permitted by this rule will provide significant benefits to the impacted public.

FEMA also finds good cause, under 5 U.S.C. 553(d)(3), for this interim rule to take effect immediately. FEMA finds that, for the reasons previously discussed, it would be impracticable and contrary to the public interest to delay this rule taking effect due to the current hurricane season and the critical nature of providing evacuation and sheltering services. *See also* 5 U.S.C. 553(d)(1).

Although FEMA has good cause to publish this rule without prior notice and comment, FEMA values public comments. As a result, FEMA is soliciting public comments on this interim rule and may revise the final rule in response to those comments. In particular FEMA invites comments from State and local governments who have both received and provided evacuation and sheltering services.

Executive Order 12866—Regulatory Planning and Review

Under Executive Order 12866, 58 FR 51735, October 4, 1993, a "significant regulatory action'" is subject to Office of Management and Budget (OMB) review and the requirements of Executive Order 12866. Section 3(f) of the Executive Order defines "significant regulatory action" as one that is likely to result in a rule that may:

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

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

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

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

DHS and OMB have determined that this rule does not constitute a significant regulatory action under Executive Order 12866. This interim rule does not substantially change the amount of eligible grant funding under Presidential emergency or major disaster declarations. Rather, it alters the mechanism by which assistance for sheltering and evacuation operations is delivered.

Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA) mandates that an agency conduct an RFA analysis when an agency is "required by section 553 * * * to publish general notice of proposed rulemaking for any proposed rule * * *" 5 U.S.C. 603(a). Accordingly, RFA analysis is not required when a rule is exempt from notice and comment rulemaking under 5 U.S.C. 553(b). DHS has determined that good cause exists under 5 U.S.C. 553(b)(B) to exempt this rule from the notice and comment requirements of 5 U.S.C. 553(b). Therefore no RFA analysis under 5 U.S.C. 603 is required for this rule.

Unfunded Mandates Reform Act of 1995

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 Unfunded Mandates Reform 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. The Unfunded Mandates Reform Act does not require an assessment in the case of an interim rule issued without prior notice and public comment. Nevertheless, FEMA does not expect this rule to result in such expenditure.

Executive Order 13132, Federalism

This interim rule will not have substantial direct effects on the States, on the relationship between the National Government and the States, or on the distribution of power and responsibilities among the various levels of government. It will not preempt any State laws. In accordance with section 6 of Executive Order 13132, FEMA determines that this rule will not have federalism implications sufficient to warrant the preparation of a federalism impact statement.

National Environmental Policy Act

This interim rule falls within the exclusion category of 44 CFR 10.8(d)(2)(ii), which addresses the preparation, revision, adoption of regulations, directives, manuals, and other guidance documents related to actions that qualify for categorical exclusions. Because no other extraordinary circumstances have been identified, this interim rule will not require the preparation of either an environmental assessment or an environmental impact statement as defined by the National Environmental Policy Act.

Paperwork Reduction Act of 1995

This interim rule will not revise information collection requirements currently approved under the Paperwork Reduction Act of 1995. Under the Paperwork Reduction Act, a person may not be penalized for failing to comply with an information collection that does not display a currently valid OMB control number. FEMA has determined that because the interim rule would not involve information collection, there is no need to address the Paperwork Reduction Act in the promulgation of the rule.

List of Subjects in 44 CFR Part 206

Public Assistance, Work Eligibility.

■ Accordingly, for the reasons set forth in the preamble, FEMA amends part 206 of Chapter I of title 44 of the Code of Federal Regulations as follows:

PART 206—FEDERAL DISASTER ASSISTANCE FOR DISASTERS DECLARED ON OR AFTER NOVEMBER 23, 1988

■ 1. Revise the authority citation for part 206 to read as follows:

Authority: Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. 5121–5206; Reorganization Plan No. 3 of 1978, 43 FR 41943, 3 CFR, 1978 Comp., p. 329; E.O. 12127, 44 FR 19367, 3 CFR, 1979 Comp., p. 376; E.O. 12148, 44 FR 43239, 3 CFR, 1979 Comp., p. 412; and E.O. 12673, 54 FR 12571, 3 CFR, 1989 Comp., p. 214.

■ 2. Revise § 206.223(a)(2) to read as follows:

§ 206.223 General work eligibility.

(a) * * *

(2) Be located within a designated disaster area, except that sheltering and evacuation activities may be located outside the designated disaster area, and

* * * * *

Dated: July 10, 2006.

R. David Paulison,

Director, Federal Emergency Management Agency, Department of Homeland Security.

[FR Doc. E6–11128 Filed 7–13–06; 8:45 am]

BILLING CODE 9110–10–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 648

[Docket No. 060314069–6069–01; I.D. 071106A]

Magnuson-Stevens Fishery Conservation and Management Act Provisions; Fisheries of the Northeastern United States; Atlantic Sea Scallop Fishery; Closure of the Nantucket Lightship Scallop Access Area to General Category Scallop Vessels

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

ACTION: Temporary rule; closure.

SUMMARY: NMFS announces that the 577 allowed trips for general category scallop vessels into the Nantucket Lightship Scallop Access Area (NLCA) are projected to be taken by 0001 hr local time, July 13, 2006. The area will be closed to general category vessels until it reopens on June 15, 2007. This action is being taken to prevent the allocation of general category trips in the NLCA from being exceeded during the 2006 fishing year in accordance with the regulations implemented under Framework 18 to the Atlantic Sea Scallop Fishery Management Plan (FMP) and the Magnuson-Stevens Fishery Conservation and Management Act.

DATES: The closure of the NLCA to all general category scallop vessels is effective 0001 hr local time, July 13, 2006, through June 14, 2007.

FOR FURTHER INFORMATION CONTACT: Ryan Silva, Fishery Management Specialist, (978) 281–9326, fax (978) 281–9135.

SUPPLEMENTARY INFORMATION: Regulations governing fishing activity in the Sea Scallop Access Areas are found at 50 CFR 648.59 and 648.60. Regulations specifically governing general category scallop vessel operations in the NLCA are specified at § 648.59(d)(5)(ii). These regulations authorize vessels issued a valid general category scallop permit to fish in the NLCA under specific conditions, including a cap of 577 trips to be made by general category vessels during the 2006 fishing year. The regulations at § 648.59(d)(5)(ii) close the NLCA to general category scallop vessels once the Northeast Regional Administrator (RA)

has determined that the allowed number of trips are projected to be taken.

Based on Vessel Monitoring System (VMS) trip declarations by general category scallop vessels fishing in the NLCA and analysis of fishing effort, a projection concluded that, given current activity levels by general category scallop vessels in the area, the trip cap would be attained on July 13, 2006. Therefore, in accordance with the regulations at 50 CFR 648.59(d)(5)(ii), the NLCA is closed to all general category scallop vessels as of 0001 hr local time, July 13, 2006. This closure is in effect for the remainder of the 2006 Access Area Season, which ends January 31, 2007. The NLCA is scheduled to re-open to scallop fishing, including trips for general category scallop vessels, on June 15, 2007, unless the schedule for scallop access areas is modified by the New England Fishery Management Council.

Classification

This action is required by 50 CFR part 648 and is exempt from review under Executive Order 12866.

This action closes the NLCA to all general category scallop vessels until June 15, 2007. The regulations at § 648.59(d)(5)(ii) allow such action to ensure that general category scallop vessels do not take more than their allocated number of trips in the Scallop Access Area. The NLCA opened for the 2006 fishing year on June 15, 2006. Data indicating the general category scallop fleet has taken all of the NLCA trips have only recently become available. To allow general category scallop vessels to continue to take trips in the NLCA during the period necessary to publish and receive comments on a proposed rule would result in vessels taking much more than the allowed number of trips in the NLCA. Excessive trips and harvest from the Scallop Access Area would result in excessive fishing effort in the Access Area, where effort controls are critical. Should excessive effort occur in the Access Area, future management measures would need to be more restrictive. Based on the above, under 5 U.S.C. 553(d)(3), proposed rulemaking is waived because it would be impracticable and contrary to the public interest to allow a period for public comment. Furthermore, for the same reasons, there is good cause under 5 U.S.C 553(d)(3) to waive the 30–day delayed effectiveness period for this action.

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

Dated: July 11, 2006.

Alan D. Risenhoover,

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

[FR Doc. 06–6236 Filed 7–11–06; 2:45 pm]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[Docket No.060216045–6045–01; I.D. 070706B]

Fisheries of the Exclusive Economic Zone Off Alaska; Pacific Ocean Perch in the Central Aleutian District of the Bering Sea and Aleutian Islands Management Area

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

ACTION: Temporary rule; closure.

SUMMARY: NMFS is prohibiting directed fishing for Pacific ocean perch in the Central Aleutian District of the Bering Sea and Aleutian Islands management area (BSAI). This action is necessary to prevent exceeding the 2006 Pacific ocean perch total allowable catch (TAC) in the Central Aleutian District of the BSAI.

DATES: Effective 1200 hrs, Alaska local time (A.l.t.), July 10, 2006, through 2400 hrs, A.l.t., December 31, 2006.

FOR FURTHER INFORMATION CONTACT: Josh Keaton, 907–586–7228.

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

The 2006 Pacific ocean perch TAC in the Central Aleutian District of the BSAI is 2,808 metric tons (mt) as established by the 2006 and 2007 final harvest specifications for groundfish in the BSAI (71 FR 10894, March 3, 2006).

In accordance with § 679.20(d)(1)(i), the Administrator, Alaska Region, NMFS, has determined that the 2006 Pacific ocean perch TAC in the Central Aleutian District of the BSAI will soon be reached. Therefore, the Regional Administrator is establishing a directed fishing allowance of 2,508 mt, and is setting aside the remaining 300 mt as bycatch to support other anticipated groundfish fisheries. In accordance with § 679.20(d)(1)(iii), the Regional Administrator finds that this directed fishing allowance has been reached. Consequently, NMFS is prohibiting directed fishing for Pacific ocean perch in the Central Aleutian District of the BSAI.

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

Classification

This action responds to the best available information recently obtained from the fishery. The Assistant Administrator for Fisheries, NOAA (AA), finds good cause to waive the requirement to provide prior notice and opportunity for public comment pursuant to the authority set forth at 5 U.S.C. 553(b)(B) as such requirement is impracticable and contrary to the public interest. This requirement is impracticable and contrary to the public interest as it would prevent NMFS from responding to the most recent fisheries data in a timely fashion and would delay the closure of Pacific ocean perch in the Central Aleutian District of the BSAI. NMFS was unable to publish a notice providing time for public comment because the most recent, relevant data only became available as of July 7, 2006.

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

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

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

Dated: July 10, 2006.

James P. Burgess,

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

[FR Doc. 06–6214 Filed 7–10–06; 3:42 pm]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[Docket No. 060216044–6044–01; I.D. 071006F]

Fisheries of the Exclusive Economic Zone Off Alaska; Pacific Ocean Perch in the Western Regulatory Area of the Gulf of Alaska

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

ACTION: Temporary rule; closure.

SUMMARY: NMFS is prohibiting directed fishing for Pacific Ocean perch in the Western Regulatory Area of the Gulf of Alaska (GOA). This action is necessary to prevent exceeding the 2006 total allowable catch (TAC) of Pacific Ocean perch in the Western Regulatory Area of the GOA.

DATES: Effective 1200 hrs, Alaska local time (A.l.t.), July 11, 2006, through 2400 hrs, A.l.t., December 31, 2006.

FOR FURTHER INFORMATION CONTACT: Josh Keaton, 907–586–7228.

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

The 2006 TAC of Pacific Ocean perch in the Western Regulatory Area of the GOA is 4,155 metric tons (mt) as established by the 2006 and 2007 harvest specifications for groundfish of the GOA (71 FR 10870, March 3, 2006).

In accordance with § 679.20(d)(1)(i), the Administrator, Alaska Region, NMFS (Regional Administrator), has determined that the 2006 TAC of Pacific Ocean perch in the Western Regulatory Area of the GOA will soon be reached. Therefore, the Regional Administrator is establishing a directed fishing allowance of 4,055 mt, and is setting aside the remaining 100 mt as bycatch to support other anticipated groundfish fisheries. In accordance with § 679.20(d)(1)(iii), the Regional Administrator finds that this directed fishing allowance has been reached. Consequently, NMFS is prohibiting directed fishing for Pacific Ocean perch in the Western Regulatory Area of the GOA.

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

Classification

This action responds to the best available information recently obtained from the fishery. The Assistant Administrator for Fisheries, NOAA (AA), finds good cause to waive the requirement to provide prior notice and opportunity for public comment pursuant to the authority set forth at 5 U.S.C. 553(b)(B) as such requirement is impracticable and contrary to the public interest. This requirement is impracticable and contrary to the public interest as it would prevent NMFS from responding to the most recent fisheries data in a timely fashion and would delay the closure of Pacific Ocean perch in the Western Regulatory Area of the GOA. NMFS was unable to publish a notice providing time for public comment because the most recent, relevant data only became available as of July 10, 2006.

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

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

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

Dated: July 11, 2006.

Alan D. Risenhoover

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

[FR Doc. 06–6234 Filed 7–11–06; 2:45 pm]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[Docket No. 060216044–6044–01; I.D. 071106B]

Fisheries of the Exclusive Economic Zone Off Alaska; Pacific Ocean Perch in the West Yakutat District of the Gulf of Alaska

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

ACTION: Temporary rule; closure.

SUMMARY: NMFS is prohibiting directed fishing for Pacific ocean perch in the West Yakutat District of the Gulf of Alaska (GOA). This action is necessary to prevent exceeding the 2006 total allowable catch (TAC) of Pacific ocean perch in the West Yakutat District of the GOA.

DATES: Effective 1200 hrs, Alaska local time (A.l.t.), July 11, 2006, through 2400 hrs, A.l.t., December 31, 2006.

FOR FURTHER INFORMATION CONTACT: Josh Keaton, 907–586–7228.

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

The 2006 TAC of Pacific ocean perch in the West Yakutat District of the GOA is 1,101 metric tons (mt) as established by the 2006 and 2007 harvest specifications for groundfish of the GOA (71 FR 10870, March 3, 2006).

In accordance with § 679.20(d)(1)(i), the Administrator, Alaska Region, NMFS (Regional Administrator), has determined that the 2006 TAC of Pacific ocean perch in the West Yakutat District of the GOA will soon be reached. Therefore, the Regional Administrator is establishing a directed fishing allowance of 1,026 mt, and is setting aside the remaining 75 mt as bycatch to support other anticipated groundfish fisheries. In accordance with § 679.20(d)(1)(iii), the Regional Administrator finds that this directed fishing allowance has been reached. Consequently, NMFS is prohibiting directed fishing for Pacific ocean perch in the West Yakutat District of the GOA.

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

Classification

This action responds to the best available information recently obtained from the fishery. The Assistant Administrator for Fisheries, NOAA (AA), finds good cause to waive the requirement to provide prior notice and opportunity for public comment pursuant to the authority set forth at 5 U.S.C. 553(b)(B) as such requirement is impracticable and contrary to the public

interest. This requirement is impracticable and contrary to the public interest as it would prevent NMFS from responding to the most recent fisheries data in a timely fashion and would delay the closure of Pacific ocean perch in the West Yakutat District of the GOA. NMFS was unable to publish a notice providing time for public comment because the most recent, relevant data only became available as of July 10, 2006.

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

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

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

Dated: July 11, 2006.

Alan D. Risenhoover,

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

[FR Doc. 06–6235 Filed 7–11–06; 2:45 pm]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 680

[Docket No. 060330091–6185–02; I.D. 032406D]

RIN 0648–AU37

Fisheries of the Exclusive Economic Zone Off Alaska; Allocating Bering Sea and Aleutian Islands King and Tanner Crab Fishery Resources

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

ACTION: Final rule.

SUMMARY: NMFS issues a final rule to implement Amendment 21 to the Fishery Management Plan for Bering Sea/Aleutian Islands King and Tanner Crabs (FMP). This action makes changes to the arbitration system in the Bering Sea and Aleutian Islands (BSAI) Crab Rationalization Program (Program) by modifying the timing for harvesters and processors to match harvesting and processing shares and the timing for initiating arbitration proceedings to resolve price and other delivery disputes. This action is necessary to increase resource conservation and economic efficiency in the crab fisheries that are subject to the Program. This action is intended to promote the goals and objectives of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act), the FMP, and other applicable law.

DATES: Effective on August 14, 2006.

ADDRESSES: Copies of the environmental assessment/regulatory impact review/initial regulatory flexibility analysis (EA/RIR/IRFA) and the Final Regulatory Flexibility Analysis (FRFA) prepared for this action, and the Bering Sea and Aleutian Islands Crab Fisheries Final Environmental Impact Statement (EIS) prepared for the Crab Rationalization Program, may be obtained from the NMFS Alaska Region, P.O. Box 21668, Juneau, AK 99802, Attn: Ellen Walsh, Records Officer, and from the NMFS Alaska Region website at *http://www.fakr.noaa.gov*.

FOR FURTHER INFORMATION CONTACT: Glenn Merrill, 907–586–7228 or *glenn.merrill@noaa.gov*.

SUPPLEMENTARY INFORMATION: The king and Tanner crab fisheries in the exclusive economic zone of the BSAI are managed under the FMP. The FMP was prepared by the North Pacific Fishery Management Council (Council) under the Magnuson-Stevens Act as amended by the Consolidated Appropriations Act of 2004 (Public Law 108–199, section 801). Amendments 18 and 19 to the FMP included the Program. A final rule implementing these amendments was published on March 2, 2005 (70 FR 10174). Regulations implementing Amendments 18 and 19 are located at 50 CFR part 680. On May 25, 2006, the Secretary approved Amendment 20 to the FMP, which authorizes the issuance of an East Bering Tanner crab quota share (QS) and West Bering Tanner crab QS. The final rule to implement Amendment 20 was published in the **Federal Register** on June 7, 2006 (71 FR 32862).

In February 2006, the Council adopted Amendment 21 to the FMP. The notice of availability for Amendment 21 was published in the **Federal Register** on March 31, 2006 (71 FR 16278), with a public comment period through May 30, 2006. NMFS received one comment on Amendment 21. That comment is addressed as Comment 1 in the Response to Comment section. NMFS approved Amendment 21 on June 30, 2006.

NMFS published the proposed rule for Amendment 21 in the **Federal Register** on April 20, 2006 (71 FR 20378), with a public comment period through June 5, 2006. NMFS received two comment letters with four unique public comments on the proposed rule.

A more in depth description of this action is provided in the preamble to the proposed rule and is briefly summarized here. Under the Program, NMFS issued harvester QS that yields annual individual fishing quota (IFQ). An IFQ is a permit to harvest a specific portion of the total allowable catch (TAC). A portion of the IFQs issued are "Class A" IFQ. Crab harvested under a Class A IFQ permit must be delivered to a specific processor. NMFS issued processor quota share (PQS) to processors that yield individual processing quota (IPQ). IPQ is a permit to receive and process a portion of the TAC harvested with Class A IFQ. A one-to-one relationship exists between Class A IFQ and IPQ.

The Program includes an arbitration system to resolve price, delivery terms, and other disputes if holders of Class A IFQ and IPQ are unable to negotiate those terms. The arbitration system provides harvesters and processors with the ability to reach price agreements through binding arbitration using two methods: (1) the "share match" approach that results in a binding arbitration decision prior to the season; and (2) the "lengthy season" approach that allows a binding arbitration proceeding to begin under a mutually agreed upon negotiation timeline.

After the annual issuance of IFQ and IPQ, the share match approach, at § 680.20(h)(3)(iv)(A), allows harvesters who are not affiliated with a processor through ownership or control linkages (unaffiliated harvesters) to unilaterally commit delivery of harvests from Class A IFQ to a processor with available IPQ. Once committed, the unaffiliated harvester is permitted to initiate a binding arbitration proceeding under § 680.20(h)(3)(v) if the parties are unable to agree to the terms of delivery. Regulations at § 680.20(h)(3)(v) require that an IFQ holder initiate binding arbitration at least 15 days prior to a season opening.

Alternatively, regulations at § 680.20(h)(3)(iii) allow unaffiliated harvesters to match IFQ with processors with available IPQ using a lengthy season approach. The lengthy season approach allows harvesters and processors to use the binding arbitration proceeding during a specific time during the fishing season rather than prior to the start of the season. The lengthy season approach requires a mutual agreement of both partes to schedule arbitration proceedings later in the season, which can affect negotiating positions.

The share match approach to resolve price disputes has not met the needs of IFQ holders because they are not able to

initiate arbitration 15 days prior to the start of the season, as required by regulation. IFQ holders have noted a desire to use the share match approach in the future. Under the current schedule for stock assessments and TAC setting, NMFS typically does not issue IFQ and IPQ 15 days prior to a season opening. NMFS issued quota 5 days prior to the season during the 2005/2006 fishing year for most fisheries. This schedule effectively limits the ability of IFQ holders to rely on the share match approach to achieve a price resolution.

Because of existing stock assessment and TAC setting procedures, it is not feasible for NMFS to change the timing of issuance of IFQ and IPQ. Each year, the State of Alaska Department of Fish and Game (ADF&G) establishes a TAC for BSAI crab through a collaborative process with NMFS. The FMP outlines this process. ADF&G considers the most recent and best available scientific data when determining the TAC for a fishery. In most cases, crab stock survey data become available for analysis between mid-August and mid-September. Once data is available, NMFS and ADF&G analysts perform stock assessments to estimate stock abundance as needed for determinating the status of the stocks relative to overfishing and determining the TACs. For most BSAI crab fisheries which open on October 15, ADF&G announces the TACs on October 1. The TAC announcement timing allows ADF&G and NMFS to thoroughly review the data prior to the TAC determinations, and for NMFS to issue IFQs and IPQs prior to the October 15 season opening. Announcing the TACs before October 1 could compromise the integrity of the results, introduce additional errors, and limit the ability of ADF&G and NMFS to use the most recent and best available data. Once ADF&G announces the TAC, NMFS issues IFQ to harvesters based upon their holdings of QS, and IPQ to processors based upon their holdings of PQS. The IFQ issuance process requires several days after the TAC is announced.

This final rule provides a mechanism ensuring that a binding arbitration proceeding could occur early in the fishing season and in accordance with the original Program. The new mechanism fulfills the FMP's intent to provide harvesters and processors with effective methods of resolving price disputes under the arbitration system. This final rule accommodates the existing stock assessment and TAC announcement processes by linking the timing for initiating share matching and a binding arbitration proceeding to the issuance of IFQ and IPQ. This will provide participants with a reasonable and reliable opportunity to fully use the arbitration system, consistent with the original intent of the Program.

With this final rule, the timing for share matching and initiation of binding arbitration is based on the issuance of IFQ and IPQ, including a five-day (120 hour) assessment period for negotiated commitments. For a period of five days (120 hours) after the issuance of IFQ and IPQ, unaffiliated harvesters holding Class A IFQ and holders of IPQ can voluntarily agree to commit their respective shares. After the five-day (120-hour) assessment period, holders of uncommitted Class A IFQ can unilaterally commit that IFQ to any holder of uncommitted IPQ. During the 10-day period beginning five days after the issuance of IFQ and IPQ, any holder of committed Class A IFQ can unilaterally initiate a binding arbitration proceeding with the IPQ holder to which the IFQ were committed. An IFQ holder may not initiate a binding arbitration procedure after this 10 day period, which combined with the assessment period, is 360 hours after the issuance of IFQ and IPQ for a fishery.

This final rule does not change existing requirements that the arbitration parties meet with a contract arbitrator to schedule information submission to the arbitrator and the terms and timing for submission of last best offers. This final rule does not modify the lengthy season approach to binding arbitration proceeding. This final rule does not alter the basic structure or management of the Program and does not alter reporting, monitoring, fee collection, and other requirements to participate in the arbitration system. This final rule also does not increase the number of harvesters or processors in the Program fisheries or the current amount of crab that may be harvested. The final rule does not affect current regional delivery requirements or other restrictions on harvesting and processing.

Response to Comments

Comment 1: The commenter recommends that quotas need to be reduced by 50 percent this year, and that a marine sanctuary should be established.

Response: This rule is not intended to impose quotas or otherwise limit harvesting or processing activities. This rule is intended to modify procedures for initiating binding arbitration proceedings for price negotiations. Any changes in quota allocations or to establish a marine sanctuary under the Program would need to be addressed in a separate amendment to the FMP and are not part of this action. The rule is not modified based on this comment.

Comment 2: Although the proposed rule tracks Amendment 21, it provides no guidance to industry or the arbitration organization and fails to address inconsistencies created with other portions of the regulations that remain unchanged.

Response: Amendment 21 was not intended to address issues in the arbitration system other than those specifically identified in the analysis that supported this rule. While additional clarifications in the arbitration system may be desired in the future, the rule is intended only to address the timing of share matching shares and the timing of initiating a binding arbitration proceeding under this share matching process. Additional changes in the arbitration system would need to be addressed through a separate FMP amendment and regulatory process. The rule has not been modified based on this comment.

Comment 3: NMFS should revise the proposed rule to provide the details necessary to implement Amendment 21. Specifically, the rule should note that the voluntary sharematching period starts on the day and hour NOAA Fisheries posts the issuance of IFQ and IPQ for a crab QS fishery on the NOAA Fishery website, and continues for the next 120 hours. Additionally, the rule should state that a binding arbitration proceeding must be initiated 240 hours after the end of the voluntary sharematching period. (Equivalent to 360 hours after the issuance of IFQ and IPQ for a crab QS fishery).

Response: NMFS agrees that it is appropriate for the rule to provide some additional clarity in the definition of the specific time periods for initiating share matching and a binding arbitration proceeding in a crab QS fishery. The proposed rule indicated that Arbitration IFQ holders could begin matching shares with IPQ holders five days after NMFS issues IFQ and IPQ for that crab QS fishery, and that a Binding Arbitration proceeding must begin no later than 15 days after the issuance of IFQ and IPQ in a fishery. The clarifications below do not differ substantively from the time periods specified in the proposed rule, and will reduce potential conflicts when interpreting the intent of these provisions. NMFS modifies the rule with three clarifications:

1. The issuance of IFQ and IPQ for a crab QS fishery occurs on the time and date that IFQ and IPQ amounts for that crab QS fishery are posted on the NMFS, Alaska Region website at *http://www.fakr.noaa.gov.*

2. An uncommitted Arbitration IFQ holder may begin matching shares with an uncommitted IPQ holder no earlier than 120 hours after the issuance of IFQ and IPQ for that crab QS fishery. A 120-hour period is equivalent to five days.

3. An uncommitted Arbitration IFQ holder must initiate a Binding Arbitration proceeding for a crab QS fishery not later than 360 hours after NMFS issuance that crab QS fishery. A 360-hour period is equivalent to 15 days.

Comment 4: NMFS should advise the arbitration organizations that the details associated with implementation of Amendment 21 and the proposed rule are consistent with the third-party data provider mechanism established by arbitration organizations to share information on uncommitted IPQ.

Response: Amendment 21 and the accompanying final rule are intended to narrowly address the specific timing for initiating share matching and a binding arbitration proceeding in a crab QS fishery. Amendment 21 and the final rule were not intended to provide a mechanism to review the adequacy of the interpretation of specific contract terms or the operation of a third-party data provider for purposes of sharing information among Arbitration IFQ and IPQ holders. Nothing in the rule is intended to address the contract terms for a third-party data provider, and the rule is not inconsistent with the required contractual terms. NMFS notes that the interpretation and enforcement of those terms is specifically intended to be addressed through civil measures. Please see regulations at § 680.20(a) for additional details. Although the use of a third-party data provider as described by the commenter does not appear to be inconsistent with this rule, any interpretation, implementation, or enforcement of specific third-party data provider contract terms remains a civil matter. The rule has not been modified based on this comment.

Changes from the Proposed Rule

The final rule has been changed from the proposed rule at § 680.20(h)(3)(iv)(A) and (h)(3)(v) to clarify the time periods for initiating share matching and a binding arbitration proceeding as explained in the response to Comment 3.

Classification

NMFS has determined that the final rule is consistent with the FMP, the Magnuson-Stevens Act, and other applicable laws.

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

NMFS prepared a final regulatory flexibility analysis (FRFA) as required by section 604(a) of the Regulatory Flexibility Act (RFA). The FRFA describes the economic impact this rule will have on small entities. A description of the action, why it is being considered, and the legal basis for it are included in this preamble. A summary of the FRFA follows. A copy of the FRFA is available from NMFS (see **ADDRESSES**).

Issues Raised by Public Comments on the IRFA

NMFS received no public comments on the IRFA.

Need for and Objectives of this Action

This action is necessary to provide a mechanism to ensure that a binding arbitration proceeding can occur early in the fishing season in accordance with the original design of the Program.

Number and Description of Small Entities Directly Regulated by the Rule

Estimates of the number of small harvesting entities under the Program are complicated by several factors. First, each eligible captain will receive an allocation of QS under the program. A total of 186 captains received allocations of QS for the 2005–2006 fishery. In addition, 269 allocations of QS to license limitation permit (LLP) license holders were made under the Program, for a total of 454 QS allocations. Because some persons participated as both LLP license holders and captains and others received allocations from the activities of multiple vessels, only 294 unique persons received QS. Of those entities receiving QS, 287 are small entities because they either generated $4.0 million or less in gross revenue, or they are independent entities not affiliated with a processor. Estimates of gross revenues for purposes of determining the number of small entities, relied on the low estimates of prices from the arbitration reports based on the 2005/2006 fishing season.

Allocations of PQS under the Program were made to 29 processors. Of these PQS recipients, nine are estimated to be large entities, and 20 are estimated to be small entities. Estimates of large entities were made based on available records of employment and the analysts' knowledge of foreign ownership of processing companies. These totals exclude catcher/processors, which are included in the LLP license holder discussion.

Other supporting businesses also may be indirectly affected by this action if it leads to fewer vessels participating in the fishery. These impacts are treated in the RIR/IRFA prepared for this action (see **ADDRESSES**).

Recordkeeping and Reporting Requirements

Implementation of this rule will not change the overall reporting structure and recordkeeping requirements of the participants in the BSAI crab fisheries or arbitration system.

Description of Significant Alternatives and Description of Steps Taken to Minimize the Significant Economic Impacts on Small Entities

The Council considered three alternatives as it designed and evaluated the potential methods for accommodating current fishery management timing and the need to provide an opportunity for a binding arbitration proceeding early during a crab fishing season. The alternatives differ only in the timing of when unaffiliated harvesters with IFQ could match their shares with processors with uncommitted IPQ. The alternatives have no effect on fishing practices or patterns.

Alternative 1 is the status quo and would maintain the existing timing requirements for initiating a binding arbitration proceeding. This would maintain the inconsistency between the timing of the issuance of IFQ and IPQ in a crab QS fishery and the requirement to initiate a binding arbitration prior to the start of the season. Alternative 1 would not provide an opportunity for harvesters to initiate a binding arbitration proceeding early in the season. Alternative 1 does not effectively implement a portion of the Program as recommended by the Council. In effect, the reliability of the arbitration system to resolve price disputes earlier in the season is limited. Although participants have relied on the lengthy season approach to effectively extend the deadline for initiating an arbitration proceeding to resolve a dispute concerning terms of delivery, the greater degree of cooperation required by the approach limits its reliability. In addition, the lengthy season approach could delay resolution of disputes, if the process for initiating arbitration could be applied as expected. The result could be either a loss of operational certainty arising from unsettled terms of delivery and potentially a shift in negotiating leverage if one party were disproportionately affected by the uncertainty.

Alternative 2, the preferred alternative, provides harvesters and processors with the opportunity to

utilize the arbitration system to resolve disputes in a manner consistent with the original intent of Program. Although Alternative 2 does not provide a price resolution through arbitration prior to the start of the season as originally envisioned, it does provide an opportunity to resolve price disputes shortly after the start of the season. Alternative 2 does not have economic effects on harvesters or processors different from those already considered under the EIS prepared for the Program (see **ADDRESSES**). The five-day assessment period contributes to stability in relationships among IFQ holders and IPQ holders, by permitting persons to resolve negotiated commitments prior to allowing unilateral commitments. In addition, this five-day period may result in more negotiated commitments by prioritizing negotiated relationships over unilateral commitments.

Alternative 3 is similar to Alternative 2, but does not provide a five-day assessment period to match shares after the issuance of IFQ and IPQ. The absence of such a period could provide an advantage to persons who are unable, or unwilling, to develop voluntary commitments. The absence of this period to allow IFQ and IPQ holders to finalize negotiated commitments also could disrupt markets by flooding IPQ holders with unilateral commitments from IFQ holders who fear being displaced by others. An orderly settlement of commitments is more likely to take place if a period of negotiated commitments were permitted prior to allowing unilateral commitments, as in Alternative 2.

Alternative 2 minimizes the potential negative impacts that could arise under the status quo or Alternative 3. Therefore, neither of the significant alternatives to the preferred alternative have the potential to achieve the objectives of this action, while minimizing the adverse economic impacts on directly regulated small entities. Furthermore, there is no evidence or basis for concluding that the impacts for the proposed action will have a disproportionate adverse effect on small entities, as compared to other entities operating under these rules in the BSAI crab fisheries.

Small Entity Compliance Guide

NMFS has posted a small entity compliance guide on the Internet at *http://www.fakr.noaa.gov/sustainablefisheries/crab/rat/progfaq.htm* to satisfy the Small Business Regulatory Enforcement Fairness Act of 1996, which requires a plain language guide to assist small entities in complying with this rule. Contact NMFS to request a hard copy of the guide (see **ADDRESSES**).

List of Subjects in 50 CFR Part 680

Alaska, Fisheries, Reporting and recordkeeping requirements.

Dated: July 11, 2006.

Samuel D. Rauch III,

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

■ For the reasons set out in the preamble, NMFS amends 50 CFR part 680 as follows:

PART 680—SHELLFISH FISHERIES OF THE EXCLUSIVE ECONOMIC ZONE OFF ALASKA

■ 1. The authority citation for part 680 continues to read as follows:

Authority: 16 U.S.C. 1862.

■ 2. In § 680.20, paragraphs (h)(3)(iv)(A) and (h)(3)(v) introductory text are revised to read as follows:

§ 680.20 Arbitration System.

* * * * *

(h) * * *

(3) * * *

(iv) * * *

(A) At any time 120 hours (five days) after NMFS issues IFQ and IPQ for that crab QS fishery in that crab fishing year, holders of uncommitted Arbitration IFQ may choose to commit the delivery of harvests of crab to be made with that uncommitted Arbitration IFQ to an uncommitted IPQ holder. The issuance of IFQ and IPQ for a crab QS fishery occurs on the time and date that IFQ and IPQ amounts for that crab QS fishery are posted on the NMFS, Alaska Region website at *http://www.fakr.noaa.gov.*

* * * * *

(v) *Initiation of Binding Arbitration.* If an Arbitration IFQ holder intends to initiate Binding Arbitration, the Arbitration IFQ holder must initiate the Binding Arbitration procedure not later than 360 hours (15 days) after NMFS issues IFQ and IPQ for that crab QS fishery in that crab fishing year. Binding Arbitration is initiated after the committed Arbitration IFQ holder notifies a committed IPQ holder and selects a Contract Arbitrator. Binding Arbitration may be initiated to resolve price, terms of delivery, and other disputes. There will be only one Binding Arbitration Proceeding for an IPQ holder but multiple Arbitration IFQ holders may participate in this proceeding. This limitation on the timing of Binding Arbitration proceedings does not include proceedings that arise due to:

* * * * *

[FR Doc. E6–11137 Filed 7–13–06; 8:45 am]

BILLING CODE 3510–22–S

Proposed Rules

Federal Register
Vol. 71, No. 135
Friday, July 14, 2006

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

FEDERAL RETIREMENT THRIFT INVESTMENT BOARD

5 CFR Parts 1630, 1651, 1653, 1690

Thrift Savings Plan Service Office and ThriftLine Contact Information

AGENCY: Federal Retirement Thrift Investment Board.

ACTION: Proposed rule; Update TSP participant services' contact information.

SUMMARY: The Federal Retirement Thrift Investment Board (Agency) is amending its regulations to update the Thrift Savings Plan's (TSP) participant services' contact information. The mailing addresses for the TSP's benefits processing units (*e.g.*, correspondence, benefits request forms, court orders and legal process actions, death benefit claims) has changed from National Finance Center, P.O. Box 61500, New Orleans, Louisiana 70161–1500 to the current addresses provided at *http://www.tsp.gov.* (These units were formerly known collectively as the TSP Service Office.) Additionally, the TSP's ThriftLine telephone number has changed from (504) 255–8777 to (877) 968–3778.

DATES: Comments must be received on or before August 14, 2006.

ADDRESSES: Comments may be sent to Thomas K. Emswiler, General Counsel, Federal Retirement Thrift Investment Board, 1250 H Street, NW., Washington, DC 20005. The Agency's Fax number is (202) 942–1676.

FOR FURTHER INFORMATION CONTACT: Megan Graziano on (202) 942–1659.

SUPPLEMENTARY INFORMATION: The Agency administers the TSP, which was established by the Federal Employees' Retirement System Act of 1986 (FERSA), Public Law 99–335, 100 Stat. 514. The TSP provisions of FERSA are codified, as amended, largely at 5 U.S.C. 8351 and 8401–79. The TSP is a tax-deferred retirement savings plan for Federal civilian employees and members of the uniformed services. The TSP is similar to cash or deferred arrangements established for private-sector employees under section 401(k) of the Internal Revenue Code (26 U.S.C. 401(k)).

The Executive Director proposes to amend the Agency's regulations to provide current contact information for the Agency's processing units and ThriftLine. In addition to providing participants with accurate contact information, the proposed language often directs participants to the TSP Web site as opposed to a specific address. Use of the Web site for reference will reduce Agency resources used to update such contact information.

Regulatory Flexibility Act

I certify that these regulations will not have a significant economic impact on a substantial number of small entities. They will affect only employees of the Federal Government.

Paperwork Reduction Act

I certify that these regulations do not require additional reporting under the criteria of the Paperwork Reduction Act.

Unfunded Mandates Reform Act of 1995

Pursuant to the Unfunded Mandates Reform Act of 1995, 2 U.S.C. 602, 632, 653, 1501–1571, the effects of this regulation on state, local, and tribal governments and the private sector have been assessed. This regulation will not compel the expenditure in any one year of $100 million or more by state, local, and tribal governments, in the aggregate, or by the private sector. Therefore, a statement under § 1532 is not required.

Submission to Congress and the General Accounting Office

Pursuant to 5 U.S.C. 810(a)(1)(A), the Agency submitted 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 before publication of this rule in the **Federal Register**. This rule is not a major rule as defined at 5 U.S.C. 814(2).

List of Subjects

5 CFR Part 1630

Privacy Act regulations.

5 CFR Part 1651

Death benefits.

5 CFR Part 1653

Court Orders and legal processes affecting Thrift Savings Plan accounts.

5 CFR Part 1690

Thrift Savings Plan.

Thomas K. Emswiler,
General Counsel.

For the reasons set forth in the preamble, the Agency proposes to amend 5 CFR chapter VI as follows:

PART 1630—PRIVACY ACT REGULATIONS

1. The authority citation for part 1630 continues to be read as follows:

Authority: 5 U.S.C. 552a.

2. Amend § 1630.4 by revising the third sentence of paragraph (a)(1) and the third sentence of paragraph (a)(2) to read as follows:

§ 1630.4 Request for Notification and access.

(a) * * *

(1) * * * The mailing address of the Thrift Savings Plan is provided at *http://www.tsp.gov.* * * *

(2) * * * To use the TSP ThriftLine, the participant must have a touch-tone telephone and call the following number (877) 968–3778. * * *

* * * * *

PART 1651—DEATH BENEFITS

3. The authority citation for part 1651 continues to read as follows:

Authority: 5 U.S.C. 8424(d), 8432(j), 8433(e), 8435(c)(2), 8474(b)(5) and 8474(c)(1).

4. Amend § 1651.31 by adding a sentence at the end of the paragraph to read as follows:

§ 1651.13 How to apply for a death benefit.

* * * Please visit *http://www.tsp.gov* to obtain a copy of this form and for the current mailing address for death benefit applications.

PART 1653—COURT ORDERS AND LEGAL PROCESSES AFFECTING THRIFT SAVINGS PLAN ACCOUNTS

5. The authority citation for part 1653 continues to read as follows:

Authority: 5 U.S.C. 8435, 8436(b), 8437(e), 8439(a)(3), 8467, 8474(b)(5) and 8474(c)(1).

6. Amend § 1653.3 by revising the third sentence of paragraph (b) introductory text to read as follows:

§ 1653.3 Processing retirement benefits court orders.

* * * * *

(b) * * * Retirement benefits court orders should be submitted to the TSP record keeper at the current address as provided at *http://www.tsp.gov.* * * *

* * * * *

7. Amend § 1653.13 by revising the third sentence of paragraph (b) introductory text to read as follows:

§ 1653.13 Processing legal processes.

* * * * *

(b) * * * Legal processes should be submitted to the TSP record keeper at the current address as provided at *http://www.tsp.gov.* * * *

* * * * *

PART 1690—THRIFT SAVINGS PLAN

8. The authority citation for part 1690 continues to be read as follows:

Authority: 5 U.S.C. 8474.

9. Amend § 1690.1 by removing the definition of *Thrift Savings Plan Service Office or TSPSO* and by revising the definition of *ThriftLine* to read as follows:

§ 1690.1 Definitions.

* * * * *

ThriftLine means the automated voice response system by which TSP participants may, among other things, access their accounts by telephone. The ThriftLine can be reached at (877) 968–3778.

* * * * *

[FR Doc. E6–11064 Filed 7–13–06; 8:45 am]
BILLING CODE 6760–01–P

DEPARTMENT OF HOMELAND SECURITY

Bureau of Customs and Border Protection

19 CFR Parts 4 and 122

[USCBP–2005–0003]

RIN 1651–AA62

Passenger Manifests for Commercial Aircraft Arriving in and Departing From the United States; Passenger and Crew Manifests for Commercial Vessels Departing From the United States

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

ACTION: Notice of proposed rulemaking.

SUMMARY: This rule proposes to amend existing Bureau of Customs and Border Protection regulations concerning electronic manifest transmission requirements relative to passengers, crew members, and non-crew members traveling onboard international commercial flights and voyages. Under current regulations, air carriers must transmit to the Bureau of Customs and Border Protection (CBP), Department of Homeland Security (DHS), passenger manifest information for aircraft en route to the United States no later than 15 minutes after the departure of the aircraft. This proposed rule implements the Intelligence Reform and Terrorism Prevention Act of 2004 requirement that such information be provided to the government before departure of the aircraft. This proposed rule provides air carriers a choice between transmitting complete manifests no later than 60-minutes prior to departure of the aircraft or transmitting manifest information on passengers as each passenger checks in for the flight, up to but no later than 15 minutes prior to departure. The rule also proposes to amend the definition of "departure" for aircraft to mean the moment the aircraft is pushed back from the gate. For vessel departures from the United States, the rule proposes transmission of passenger and crew manifests no later than 60 minutes prior to departure of the vessel.

DATES: Written comments must be received on or before August 14, 2006.

ADDRESSES: You may submit comments, identified by docket number USCBP–2005–0003, by *one* of the following methods:

(1) *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.

(2) *Mail:* Comments by mail are to be addressed to the Bureau of Customs and Border Protection, Office of Regulations and Rulings, Regulations Branch, 1300 Pennsylvania Ave., NW. (Mint Annex), Washington, DC 20229.

(3) *Hand delivery/courier:* 799 9th Street, NW., Washington, DC 20220.

FOR FURTHER INFORMATION CONTACT: Charles Perez, Program Manager, Office of Field Operations, Bureau of Customs and Border Protection (202–344–2605).

SUPPLEMENTARY INFORMATION: The Supplementary Information section is organized as follows:

I. Public Participation

Interested persons are invited to participate in this rulemaking by submitting written data, views, or arguments on all aspects of the proposed rule. CBP also invites comments that relate to the economic, environmental, or federalism effects that might result from this proposed rule. Comments that will provide the most assistance to CBP in developing these procedures will reference a specific portion of the proposed rule, explain the reason for any recommended change, and include data, information, or authority that support such recommended change.

Instructions: All submissions received must include the agency name and docket number for this rulemaking (USCBP–2005–0003). All comments received will be posted without change to *http://www.regulations.gov,* including any personal information provided.

Docket: For access to the docket to read background documents or comments received, go to *http://www.regulations.gov.* Submitted comments may also be inspected at the Bureau of Customs and Border Protection, 799 9th Street, NW., Washington, DC 20220. To inspect comments, please call (202) 572–8768 to arrange for an appointment.

II. Background and Purpose

The Advance Passenger Information System (APIS) is a widely utilized electronic data interchange system approved by DHS for use by international commercial air and vessel carriers to transmit electronically to CBP certain data on passengers, crew members, and non-crew members, as required under CBP regulations. APIS was developed by the former U.S. Customs Service (Customs) in 1988, in cooperation with the former Immigration and Naturalization Service

(INS) and the airline industry. Although initially voluntary, APIS participation grew, making it nearly an industry standard. Requirements governing the electronic transmission of passenger, crew member, and non-crew member (cargo flights only) manifests for commercial aircraft and/or vessels involved in international travel operations were established in accordance with several statutory mandates, including, but not limited to: section 115 of the Aviation and Transportation Security Act (ATSA; Public Law 107–71, 115 Stat. 623; 49 U.S.C. 44909), section 402 of the Enhanced Border Security and Visa Entry Reform Act of 2002 (abbreviated here to Enhanced Border Security Act or EBSA; Public Law 107–173, 116 Stat. 557; 8 U.S.C. 1221), and certain Transportation Security Administration (TSA) laws and regulations (49 U.S.C. 114; 49 CFR 1544, 1546, 1550). A more detailed description of the histories of electronic manifest information requirements, and of these authorities, is set forth in a final rule published by CBP on April 7, 2005 at 70 FR 17820.

The information transmitted by carriers using APIS consists, in part, of information that appears on the biographical data page of travel documents, such as passports issued by governments worldwide. Many APIS data elements (such as name, date of birth, gender, country of citizenship, passport or other travel document information) have been collected routinely over the years by governments of countries into which a traveler seeks entry (by requiring the traveler to present a government-issued travel document). CBP uses this biographical data to perform enforcement and security queries against various multi-agency law enforcement and terrorist databases in connection with, as appropriate, international flights to, from, continuing within, and overflying the United States and international voyages to and from the United States.

Current CBP regulations require air carriers to electronically transmit passenger arrival manifests to CBP no later than 15 minutes after the departure of the aircraft from any place outside the United States (19 CFR 122.49a(b)(2)) and passenger departure manifests no later than 15 minutes prior to departure of the aircraft from the United States (19 CFR 122.75a(b)(2)). Manifests for crew members on passenger and all-cargo flights and non-crew members on all-cargo flights must be electronically transmitted to CBP no later than 60 minutes prior to the departure of any covered flight to, continuing within, or overflying the United States (19 CFR 122.49b(b)(2)) and no later than 60 minutes prior to the departure of any covered flight from the United States (19 CFR 122.75b(b)(2)) (a covered flight being one covered by these regulations).

Current CBP regulations require vessel carriers to electronically transmit arrival passenger and crew member manifests at least 24 hours and up to 96 hours prior to the vessel's entry at a U.S. port or place of destination, depending on the length of the voyage (for voyages of 24 but less than 96 hours, transmission must be prior to departure of the vessel from any place outside the United States) (19 CFR 4.7b(b)(2)). Also, a vessel carrier must electronically transmit passenger and crew member departure manifests to CBP no later than 15 minutes prior to the vessel's departure from the United States (19 CFR 4.64(b)(2)).

These CBP regulations, referred to as the "APIS regulations" (19 CFR 4.7b, 4.64, 122.49a–122.49c, 122.75a, and 122.75b), established a framework for requiring that manifest information for passengers, crew members, and non-crew members, as appropriate, be electronically transmitted for these arrivals and departures, and for requiring crew and non-crew member manifest information for flights continuing within and overflying the United States. These regulations serve to provide the nation, the carrier industries, and the international traveling public, additional security from the threat of terrorism and enhance CBP's ability to carry out its border enforcement mission.

The Intelligence Reform and Terrorism Prevention Act of 2004 (IRTPA); Public Law 108–458, was enacted on December 17, 2004. Sections 4012 and 4071 of the IRTPA require DHS to issue regulations and procedures to allow for pre-departure vetting of passengers onboard aircraft arriving in and departing from the United States and of passengers and crew onboard vessels arriving in and departing from the United States. This proposed rule is designed to implement these important IRTPA requirements and to further enhance national security and the security of the air and vessel travel industries in accordance with the ATSA and EBSA (both of which formed the statutory basis for the APIS regulations).

This proposed rule would require transmission of, as appropriate, passenger and/or crew member information early enough in the process to prevent a high-risk passenger from boarding an aircraft and to prevent the departure of a vessel with such a passenger or crew member onboard. CBP's purpose in proposing this change is to place itself in a better position to: (1) Fully vet passenger and crew member information with sufficient time to effectively secure the aircraft or vessel, including time to coordinate with carrier personnel and domestic or foreign government authorities in order to take appropriate action warranted by the threat; (2) identify high-risk passengers and prevent them from boarding aircraft bound for or departing from the United States; and (3) identify high-risk passengers and crew members to prevent the departure of vessels from the United States with a high-risk passenger or crew member onboard. Achieving these goals would permit CBP to more effectively prevent an identified high-risk traveler from becoming a threat to passengers, crew, aircraft, vessels, or the public and would ensure that the electronic data transmission and screening process required under CBP regulations comports with the purposes of ATSA, EBSA, and IRTPA.

III. Proposed Rule

Under the manifest transmission time requirements of the existing APIS regulations, which mandate transmission of passenger manifests no later than 15 minutes after departure of an aircraft en route to the United States, CBP has the ability to fully vet commercial aircraft passenger information after the aircraft has departed. The identification of a high-risk passenger soon after the aircraft becomes airborne may result in the diversion of the aircraft to a U.S. port other than the original destination or the return of the aircraft to the port of departure (referred to as a "turnback"). This action could prevent the hijacking of the aircraft and the potential use of the plane as a weapon of mass destruction against U.S. or other targets, and would enable CBP to detain, or arrange for the detention of, the high-risk passenger. The same results could be obtained with respect to aircraft departing from the United States when identification of a high-risk passenger occurs after the aircraft is airborne. This post-departure identification could occur since the APIS regulations require the transmission of manifests only 15 minutes prior to departure.

However, high-risk passengers allowed to board before they have been fully vetted may pose a security risk for aircraft en route to or departing from the United States. A boarded high-risk passenger would have the opportunity to plant or retrieve a disassembled improvised explosive device or other weapon. The detonation of an explosive device could have devastating

consequences, both in terms of human life and from an economic perspective (damage to aircraft and airport infrastructure and any ripple effects on the airport's and the carrier's business and across the U.S. economy). Thus, requiring the collection and vetting of passenger information before the boarding of passengers on flights en route to or departing from the United States would allow CBP to identify high risk passengers before such passengers could pose a threat to fellow passengers or to the aircraft and airport.

Therefore, CBP has concluded that the prevention of a high-risk passenger from boarding an aircraft is the appropriate level of security in the commercial air travel environment. Manifest data received and vetted prior to passenger boarding will enable CBP to attain this level of security. Further, this vetting of passengers on international flights should eliminate the need for passenger carriers to conduct watch list screening of these passengers, upon publication and implementation of a final rule. Accordingly, with this proposed rule, CBP is proposing two transmission options for air carriers to select from at their discretion: (i) the submission of complete manifests no later than 60 minutes prior to departure or (ii) transmitting passenger data as individual, real-time transactions, *i.e.*, as each passenger checks in, up to but no later than 15 minutes prior to departure. Under both options, the carrier will not permit the boarding of a passenger unless the passenger has been cleared by CBP.

With respect to the commercial vessel travel environment, CBP has determined that the appropriate level of security for departing vessels is to prevent vessel departures with a high-risk passenger or crew member onboard. Thus, the proposed rule requires vessel carriers to transmit complete manifests no later than 60 minutes prior to departure. An alternative procedure based on individual passenger/crew transactions, as is provided in the air travel environment to address a need for flexibility, is not offered given the generally less time-critical nature of the commercial vessel travel environment.

Finally, with this rule, CBP also is proposing to change the definition of "departure," as discussed immediately below.

A. Change Regarding Definition of "Departure" for Aircraft

Under the existing APIS regulations, the departure of an aircraft occurs at the moment an aircraft is "wheels-up," meaning that the landing gear is retracted into the aircraft after liftoff and the aircraft is en route to its destination (19 CFR 122.49a(a)). In practice, wheels-up can occur as much as 15 to 25 or more minutes after an aircraft leaves the gate (which is referred to as "push-back"). This meaning of "departure," applied under either the existing regulations or the proposed regulations, would result in CBP receiving manifest data later in the process than is sufficient to perform full vetting and prevent high-risk boardings. CBP believes that departure for aircraft, as applied to manifests for passengers, crew members, and non-crew members under the APIS regulations, should mean the moment when an aircraft pushes-back from the gate. This change would assist in providing CBP with sufficient time to complete the full vetting process. Therefore, this rule proposes to revise the definition of "departure" in 19 CFR 122.49a(a) accordingly (which will be applicable to other APIS aircraft provisions as well: 19 CFR 122.49b, 122.75a, 122.75b).

B. Proposed Options for Transmission of Manifest Data by Air Carriers

To provide maximum flexibility for the air travel industry and aircraft passengers while improving the ability of DHS to safeguard air travel, CBP is proposing two options for the electronic transmission of manifest information by air carriers. The two transmission options proposed in this rule differ to some degree in timing, programming, and procedures. Nevertheless, both are equally effective in obtaining the advance information needed to achieve the appropriate level of security necessary for aircraft (prevent a high-risk boarding) and thereby to ensure that the purposes of the governing statutes are met. An air carrier's election of either option would depend on the individual carrier's particular operations and its capability to electronically transmit the manifest data to CBP. CBP also notes that the current APIS regulations providing for electronic transmission of manifest data 60 minutes prior to departure for crew and non-crew on flights to, from, continuing within, and overflying the United States are unchanged (19 CFR 122.49b and 122.75b).

Under one option, air carriers would transmit all required passenger data to CBP in batch form (all passenger names and associated data at once) no later than 60 minutes prior to departure of the aircraft. This option, known as APIS 60, is similar to the current electronic transmission process to the extent that manifest data would be transmitted in batch form and CBP would perform security vetting against all data at once. Under the other option, known as APIS Quick Query (AQQ), air carriers would transmit required passenger data to CBP individually as each passenger checks in for the flight, from the beginning of the check-in process up to 15 minutes prior to departure. CBP would perform its security vetting as it receives the data.

The electronic transmission system employed under these options would be "interactive," allowing the carrier to electronically receive return messages from CBP that can be sent within seconds or minutes, as opposed to the capability of the APIS manifest transmission process as implemented under the current regulation where any communication by CBP with the carrier is performed by telephone. Thus, the term "interactive" is used in this document to refer to or describe the electronic communication system employed under the APIS 60 option and the AQQ option described further below.

CBP believes that both APIS 60 and AQQ provide sufficient time to achieve the appropriate level of security sought in the commercial air travel environment, *i.e.*, to prevent a high-risk boarding. These options are offered because the unique "just in time" nature of the commercial air travel environment, characterized by busy airports, tight arrival and departure schedules, the carriers' need to minimize time aircraft spend at the gate, and the immense focus on timeliness as a performance measure, justifies flexibility in this environment.

CBP anticipates that both options will be well-utilized, and the comment period is expected to provide an indication of which option the carriers are likely to select. However, CBP expects that the AQQ option would be selected by those carriers that have pre-existing reservations control systems, whereas smaller or charter carriers may be more likely to use the APIS 60 option. A subset of air carriers would not be able to adopt either option; this is discussed further below.

Throughout the period that these proposed amendments were in development, CBP consulted with various industry associations and considered their comments concerning the impact various manifest transmission alternatives would have on business processes, operating costs, and legitimate passengers who might experience travel delays and miss connecting flights. The dual-option approach for air carriers described above is responsive to those comments and is designed to balance the security

and facilitation goals of government with the needs of the industry.

CBP submits that these options, if adopted in a final rule, will result in CBP and the air carriers achieving a far higher success rate in keeping high-risk passengers from boarding aircraft than is possible under the current regulations. With this change, instances of diversions and turnbacks will be greatly reduced, if not eliminated, due to the increased effectiveness of the process. Further, the impact on the industry will be substantially less than would be the case with other alternatives due to the greater flexibility provided by the dual-option approach.

CBP notes that there is a subcategory of air carriers that would be unable to adopt either the APIS 60 option or the AQQ option as described in this document. These carriers, typically unscheduled air carrier operators that employ eAPIS (Internet method) for manifest data transmission, such as seasonal charters, air taxis, and air ambulances, would not be able to adopt the interactive communication functionality that the APIS 60 and AQQ options employ. Consequently, CBP would manually (*i.e.*, by e-mail or telephone) communicate vetting results to these carriers. These carriers, however, would be bound by the requirement proposed in this rule to transmit passenger manifest data no later than 60 minutes prior to departure. The proposed regulation treats these carriers as a subset of air carriers that will transmit complete manifests, as opposed to carriers that will transmit manifest data per individual passenger as passengers check in for the flight. This document discusses primarily the two major options that will be available to the air carriers that will employ an interactive communication system for manifest data transmission, as set forth in this section (Section B of Part III) (but see subsection (4) of this section further below).

1. APIS 60 (Interactive Batch Transmission) Option

APIS 60 would apply as one option to transmit passenger manifests prior to departure for aircraft arriving in and departing from the United States, and as the sole requirement for transmitting passenger and crew manifests for vessels departing from the United States (see Section C of this part for these vessels). The APIS 60 procedure is, with some exception relating to transmission time requirements and interactive communication between carriers and CBP, similar to the APIS procedure currently employed to implement the current APIS regulations. For arriving and departing aircraft, air carriers would be required to transmit passenger manifests in batch form (all names and associated data at once) to CBP no later than 60 minutes prior to departure of the aircraft (as defined under this proposed rule) at which time the vetting process would begin.

Under APIS 60, the vetting of aircraft passenger data would be performed in two stages. The first would be an initial automated vetting of passenger data against appropriate law enforcement (including terrorist) databases. The second would be the further vetting of names identified as a match or possible match during the initial automated vetting stage, as well as names associated with incomplete or inadequate transmitted data.

When the initial automated vetting process identifies a match between an individual passenger's data and data on a terrorist watch list, a close possible match, or an incomplete or inadequate passenger record, CBP would send by electronic return message a "not-cleared" instruction to the carrier within minutes of CBP's receipt of the manifest data (CBP return messages relative to not-cleared instructions based on an inadequate record would also instruct the carrier to retransmit complete/corrected data). Since boarding usually commences 30 to 45 minutes prior to departure (as defined in this proposed rule), a not-cleared instruction relative to a match or possible match, or an inadequate record, would ensure, in most cases, that the associated passenger will not be allowed to board the aircraft (subject to the occasional instance of unexpected results due to error, technical anomaly, etc., or a carrier beginning the boarding process outside the 60-minute vetting window.) The manifest transmission requirements under the current regulations—no later than 15 minutes *after* departure for flights en route to the United States and no later than 15 minutes *prior to* departure for flights departing from the United States—do not achieve this critical result (even if departure were defined as push-back). An aircraft en route to the United States is already airborne before CBP even receives the manifest. For flights departing from the United States, no manifest information is received by CBP until—at the earliest—15 minutes, and often 30 minutes or more, after boarding begins (CBP notes that under the current procedure, only a passenger who is a match or possible match would be subject to further vetting).

The further vetting of passengers who generate a not-cleared instruction during the initial vetting stage would be handled by an analyst with access to additional data resources. During this stage, CBP would be able to confirm or correct matches and resolve possible matches and incomplete or inadequate passenger records, enabling most passengers who are eventually cleared to make their flights. CBP would notify a carrier by return message where the results of further vetting clear a passenger for boarding.

When the initial automated vetting procedure results in CBP's returning not-cleared instructions to the air carrier, the carrier's personnel would have to ensure that the identified passenger is not permitted to board with other passengers and that the passenger's baggage is not loaded onto, or is removed from, the aircraft. In rare instances, the carrier may have to remove the passenger from the aircraft (which may occur in the case of an oversight or other error in the boarding process or should a carrier begin the boarding process outside the 60-minute vetting window). When further vetting confirms a not-cleared passenger as high-risk, the next step in the process would include CBP communicating to the appropriate authorities the results of the vetting and any action to be taken to secure the confirmed high-risk passenger. In some circumstances, during the further vetting process, either the carrier, CBP, or other appropriate domestic or foreign government official would have to interview the passenger to complete the confirmation (or further vetting) process, a step that would take additional time.

The further vetting process, the communication step that follows, and the taking of appropriate action are the steps that, together, would consume the most time under the APIS 60 procedure. With passenger data being transmitted in a batch, CBP could have several names that require further vetting. Each query pursued in further vetting is unique and some queries will take more time than others. Further, the communication and appropriate action steps of the process are subject to additional complexities, especially when foreign carriers or government personnel are involved or an interview is required. Thus, the full process and related steps described above require more time than the current regulation provides to meet the appropriate level of security sought.

While the not-cleared instruction after the initial automated vetting stage would prevent a high-risk or potential high-risk passenger from boarding the aircraft when the carrier begins the boarding process, thereby achieving CBP's security goal, completion of the

further vetting process is necessary to make a final determination regarding the passenger subject to the not-cleared instruction. This final resolution is especially critical with respect to possible matches and incomplete or inadequate passenger records. A required transmission time frame of 60-minutes prior to departure would provide the time necessary to accommodate this process and thereby effectively achieve the appropriate level of security. CBP notes that further vetting, in most cases, would be completed in time for the passenger to make his intended flight; however, in some circumstances, further vetting could take longer than normally expected, resulting in the passenger having to be rebooked on a later flight (if ultimately cleared for flight by CBP).

As a final step in the process, the air carrier would have to transmit to CBP a list, referred to as a close-out message, consisting of a unique passenger identifier for each passenger who checked in for the flight but was not boarded for any reason. The close-out message must be transmitted as soon as possible after departure and in no instance later than 30 minutes after departure.

CBP is committed to having the APIS 60 option for pre-departure interactive electronic transmission fully available for industry use prior to publication of a final rule.

2. APIS Quick Query (Interactive Real-time Transmission) Option

Under the AQQ option, which is applicable only to aircraft arrival and departure passenger manifests, air carriers would transmit passenger data to CBP in real time, *i.e.*, as individual passengers check in, up to but no later than 15 minutes prior to departure of the aircraft; data received by CBP less than 15 minutes prior to departure would not meet the requirement.

Under the AQQ procedure, the carrier would be able to transmit data relative to a passenger as soon as passengers begin checking in for the flight, as early as 2 hours or more prior to departure (as defined in this document). Since passengers on international flights are routinely advised to arrive as much as 2 hours before departure for check-in, manifest data for most passengers would be transmitted to CBP well before departure of the flight. Moreover, fewer names and associated data would be transmitted to CBP at one time than would be the case with the batch transmissions made under the APIS 60 procedure. Under APIS 60, over 200 passenger records may be included in one batch transmission, while under AQQ, a transmission would contain the name and data for one passenger (or up to 10 passengers traveling on one itinerary).

Also, under AQQ, the messaging for CBP vetting results could be returned directly to the carrier's reservation system, reducing the time needed for human intervention. Thus, CBP would be able to respond within seconds of the carrier's transmission of data. Carriers then would have to return a message to CBP confirming receipt of any not-cleared instructions and would not issue a boarding pass to any passenger unless cleared by CBP. As with the APIS 60 option, any passenger data generating a match, possible match, or inadequate record would be forwarded to an analyst for further vetting. CBP would electronically notify the carrier as soon as possible if, upon additional analysis, a change to the not-cleared instruction is warranted (such as would be the case if a match or possible match was determined during further vetting to be cleared for boarding).

At its discretion, a carrier would be able to use a dedicated telephone number provided by CBP to seek a resolution of a not-cleared instruction by providing additional information relative to the not-cleared passenger if available, such as a physical description. CBP would consider the additional information as it proceeds with the further vetting of the passenger already in progress. In some instances, CBP would instruct the carrier to retransmit data (as in the case of inadequate data). In any case, CBP would return a message to the carrier to clear a passenger for boarding if warranted by the results of additional analysis.

Where CBP is unable to complete its additional analysis prior to departure, the carrier would be bound by the not-cleared instruction and would not be permitted to issue a boarding pass for that passenger. This could result in a passenger not making his flight and having to be rebooked should the not-cleared instruction eventually be corrected and the passenger be cleared for flight. Alternatively, and at its sole discretion, the carrier could delay the flight until CBP could clear the passenger for boarding. Finally, as with the APIS 60 option, the carrier would have to transmit to CBP, no later than 30 minutes after departure, a close-out message consisting of a unique passenger identifier for each passenger who checked in for the flight but was not boarded for any reason.

Under the AQQ procedure, carrier real-time manifest data transmission would provide sufficient time for CBP to perform an effective vetting of the passengers. Most passengers check in well before departure of international flights, so very late arrivals are likely to be comparatively few. These facts enable CBP to propose a transmission time frame that some carriers will find more compatible with their business operations.

For passengers checking in early, there generally would be ample time for completion of the vetting process. For the few passengers checking in late, CBP would be able to quickly vet the data in most instances. Thus, CBP expects that no identified high-risk passenger will receive a boarding pass and, for most flights, any passengers subject to further vetting and cleared for flight will make the flight. Also, more connecting passengers would be able to check in, be vetted, and make their flights than is anticipated under the APIS 60 procedure. This is a major advantage over the APIS 60 procedure for air carriers with connecting flight operations.

Accordingly, AQQ would achieve the appropriate level of security sought in a way that some airlines may prefer to the APIS 60 method. In addition, this procedure would prevent a high-risk passenger from gaining access to the security area, since access for domestic and most international airports is restricted to those with boarding passes. Also, a high-risk passenger's baggage would not be loaded onto the aircraft which avoids the necessity of having it removed, as may sometimes be necessary under the APIS 60 procedure.

There is, however, one exception to the foregoing: connecting passengers arriving by aircraft at the departure airport, for a flight en route to or departing from the United States, who were issued boarding passes (for the flight to or from the United States) prior to arrival at that departure airport and whose data was not previously transmitted to CBP for vetting. These passengers will already be within the security area as they transit the airport from the gate they arrived at to the gate of the connecting flight. For this unique group of passengers, CBP, in implementing AQQ, would consider the boarding passes they possess as provisional and would require that carriers obtain required data from these passengers in a manner compatible with their procedures and transmit such data to CBP as required. The carrier would be required to wait for CBP to clear any such passengers before validating the boarding passes or permitting the passengers to board the aircraft.

CBP currently is developing user requirements for the programming

necessary to implement the AQQ transmission procedure. CBP will have to make adjustments to its automated systems to offer this data transmission option to the carriers, as will carriers who elect to use this option. CBP will consider these factors, as well as others identified during the comment period, in structuring an implementation plan and schedule that coincides with the readiness of CBP's IT infrastructure to support the AQQ option. CBP is committed to having the AQQ option for pre-departure interactive electronic transmission fully available for industry use prior to publication of a final rule.

3. System Certification and Delayed Effective Date

Prior to a carrier's commencement of manifest transmission using either of the above-described APIS 60 or AQQ options, the carrier would receive a "system certification" from CBP indicating that its electronic transmission system is capable of interactively communicating with CBP's APIS system as configured for these options. Carriers already operating under the APIS procedure (under the current APIS regulation which requires batch manifest transmission but under different time requirements and a less interactive process) who opt to employ the APIS 60 option for their manifest transmissions would obtain certification only for new functionalities (relating to system interactivity) and would not undergo a full system certification.

To accommodate carriers who choose the interactive system for manifest transmission under either the APIS 60 option or the AQQ option, CBP, in this rule, is proposing that the effective date of a final rule be delayed for 180 days from the date of its publication. This should provide all such carriers sufficient time to make any necessary program changes or system modifications and to obtain system certification and implementation. CBP strongly encourages carriers to begin efforts to obtain system interactivity and certification by contacting CBP as soon as possible.

4. Carriers Opting Out; Non-Interactive Batch Transmission Process

As stated previously, some carriers, notably those currently using the eAPIS Internet method of transmitting required manifest data (typically, small, unscheduled air carrier operators, such as seasonal charters, air taxis, and air ambulances), may not be able to adopt either the APIS 60 option or the AQQ option. These carriers do not seek an interactive electronic communication method to make transmissions, as such a system does not fit their operations, technical capabilities, or budgets. Nonetheless, these carriers would be bound by a requirement to transmit manifest data no later than 60 minutes prior to departure, as proposed in this rule. The proposed rule contains a subparagraph that accommodates these carriers as transmitters of batch manifest data without interactive electronic communication capability. These carriers would not have to seek system certification. CBP will employ a manual process using email or telephone communication (by which CBP would send not-cleared messages) to accommodate these carriers. This manual procedure may slow the vetting process to some extent, but CBP believes that the goal of preventing a high-risk boarding would be achieved, as carriers would not board passengers subject to a not-cleared instruction unless cleared by CBP.

C. Proposed Change for Transmission of Manifests by Departing Vessels

Typically, vessel carriers allow boarding several hours (typically 3 to 6 hours) prior to departure. Thus, a manifest transmission requirement designed to prevent the possibility of a high-risk vessel-boarding likely would require substantial adjustments to the carriers' operations. This would frustrate CBP's intent, and the purpose of various requirements governing Federal rulemaking, to achieve the agency's goal (enhanced security) without imposing an unreasonable burden on affected parties.

CBP believes that, under this circumstance, the appropriate level of security sought in this scenario is to prevent the departure of a vessel with a high-risk passenger or crew member onboard. The change proposed in this rule is designed to achieve this level of security for vessels departing from the United States and to thereby meet the purposes of the governing statutes. Thus, for vessels departing from the United States, the proposed amendment provides for transmission of passenger and crew manifests 60 minutes prior to departure. CBP notes that the electronic system for transmission of required vessel manifest data (arrival and departure) is the U.S. Coast Guard's (Internet based) eNOA/D system. This is not an interactive system, and, unlike air carriers operating under the APIS 60 or AQQ options described above, vessel carriers would not have to obtain system certification.

After transmission of the manifest data, the initial automated vetting would result in a not-cleared instruction for matches, possible matches, and incomplete/inadequate passenger records or crew data. Carriers would attempt to prevent the boarding of such persons if it had not already occurred due to the very early boarding allowed. CBP notes that a not-cleared message returned to the carrier by CBP for an inadequate record would instruct the carrier to retransmit complete/corrected data.

During further vetting, passengers and crew for whom not-cleared instructions were sent during the initial automated vetting procedure would be either confirmed as high-risks or resolved and cleared. CBP would communicate with the carrier where further vetting resulted in the clearing of a passenger. In some instances, CBP would communicate with the carrier and other CBP personnel to take necessary action to verify (by conducting an interview if necessary) the high-risk status of passengers or crew and, as needed, secure a confirmed high-risk passenger or crew member. In this process, a confirmed high-risk passenger or crew member likely would have to be located and removed from the vessel before departure, in which case his baggage would be removed as well. Whether a further search of the vessel is warranted would be determined by CBP on a case-by-case basis. (The carrier would be free to undertake a further search at its discretion.)

The current requirement for batch manifest transmission no later than 15 minutes prior to a vessel's departure does not provide enough time to fully vet passengers or crew members or allow, where necessary, for the removal of a confirmed high-risk passenger or crew member from a vessel prior to departure. In contrast, the proposed APIS 60 procedure is expected to provide CBP the time it needs to fully vet not-cleared passengers and crew members and to remove those confirmed as a high-risk from the vessel prior to departure. The APIS 60 procedure therefore would achieve the appropriate level of security sought by CBP.

In addition to preventing a high-risk departure, this procedure would enhance CBP's capability, in some circumstances (where carriers allow already checked-in passengers to board within 60 minutes of departure), to prevent high-risk vessel boardings, as compared to what is achievable under the current regulation. An alternative option (such as AQQ or something similar) is not as necessary, given the less time-critical nature of the commercial vessel travel environment.

For vessels departing from foreign ports destined to arrive at a U.S. port,

CBP is retaining the requirement to transmit passenger and crew manifest data at least 24 hours and up to 96 hours prior to a vessel's entering the U.S. port of arrival. This requirement is consistent with the U.S. Coast Guard's "Notice of Arrival" (NOA) requirements. (Under 33 CFR 160.212, arriving vessel carriers transmit manifest data to the U.S. Coast Guard (USCG) to meet its NOA requirement. The data is then forwarded to CBP, permitting additional compliance with CBP's APIS requirement with the one carrier transmission.) Moreover, the threat posed by a high-risk passenger or crew member once onboard a vessel is different from that posed by a high-risk passenger onboard an aircraft. A hijacked vessel's movements over the water and its range of available targets could be more readily contained than those of an aircraft, thus reducing the opportunity for a terrorist to use the vessel as a weapon against a U.S. port or another vessel.

IV. Rationale for Change

A. Terrorist Threat

In proposing this rule, as discussed above, CBP points to the primary impetus for this entire rulemaking initiative (including the April 7, 2005 final rule and previous rulemaking efforts as explained in the final rule): to respond to the continuing terrorist threat facing the United States, the international trade and transportation industries, and the international traveling public since the terrorist attacks of September 11, 2001. Under the governing statutes and regulations, DHS and the air and vessel carrier industries must take steps to alleviate the risk to these vital industries and the public posed by the threat of terrorism, while also increasing national security. Ensuring security is an ongoing process, and CBP is endeavoring to put in place a regulatory scheme that includes electronic information transmission and pre-departure transmission time requirements. Together, these requirements are intended to serve as a layer of protection against high-risk travelers while facilitating lawful travel. While progress has been made, CBP continues its efforts to achieve the level of security mandated by Congress (under ATSA, EBSA, and IRTPA). CBP notes that this rulemaking initiative also would enhance CBP's ability to carry out its more traditional, but equally important, border enforcement mission.

With regard to commercial aviation, the terrorist threat has been a constant presence on the international stage since the hijackings of the 1970s. More recently, Al Qaeda and other terrorist groups have shown a consistent interest in exploiting civil aviation both as a potential target and as a means of attack. This interest has been highlighted in advanced planning, such as the thwarted plot of former Al Qaeda leader Khalid Shaikh Mohammed to explode 12 commercial airliners over a 48-hour period in 1996, as well as other attempted and successful attacks. Al Qaeda's interest in attacking civil aviation came to grim fruition in the attacks of September 11, 2001—the most costly terrorist attack in U.S. history. Even after September 11, 2001, terrorists continue to demonstrate an interest in attacking civil aviation. In August 2003, specific credible intelligence led DHS to suspend the Transit Without Visa (TWOV) program due to concerns that it might be exploited to conduct a terrorist attack. See 68 FR 46926 (Aug. 7, 2003); 68 FR 46948 (Aug. 7, 2003). About four months later, during the 2003 holiday period, international flights destined for the United States faced cancellations and delays based on threat information. The necessity of this rule is underscored further by repeated instances of higher threat levels over time, such as the higher alerts announced during the summer of 2004 for financial centers in New York City and Washington DC, and during the period prior to the 2004 U.S. Presidential election. It is noted also that terrorists seek targets of opportunity and, as such, the terrorist threat extends beyond civil aviation, as evidenced by past terrorist acts against passenger vessels. Therefore, efforts made to increase security for commercial vessels also would contribute to foreclosing an opportunity for terrorist exploitation.

It is important to note that the threat from terrorist activity is not just to human life, but also to the economic well-being of the commercial air and vessel carrier industries—two industries of great importance to the U.S. and world economies. Since the Fall of 2004, there have been several instances when the identification of a high-risk passenger by CBP or the Transportation Security Administration (TSA) after departure of an aircraft en route to the United States resulted in the diversion of the aircraft to a different U.S. port or a turnback (the return of the aircraft to the foreign port of departure). Those security measures, while necessary to safeguard the passengers on the aircraft as well as national security, are costly to the affected carriers. Accordingly, CBP proposes to collect and vet required APIS passenger data before passengers board aircraft bound for or departing from the United States, and to collect and vet earlier than is permitted under existing regulations required passenger and crew APIS data in order to achieve the maximum ability reasonably attainable for detecting high-risk persons before they can perpetrate a terrorist act.

B. IRTPA

With the passage of IRTPA, Congress expressly recognized the need to fully perform vetting of manifest information prior to the departure of commercial aircraft and vessels traveling to and from the United States. Section 4012(a)(2) of IRTPA directs DHS to issue a proposed rule providing for the collection of passenger information from international flights to or from the United States and comparison of such information with the consolidated terrorist watch list maintained by the Federal Government before departure of the aircraft. Section 4071(1) of IRTPA requires DHS to compare vessel passenger and crew information with information from the consolidated terrorist database before departure of a vessel bound for or departing from the United States. Section 4071(2) permits DHS to waive (based on impracticability) the requirement of section 4071(1) for vessels bound for the United States from foreign ports. CBP has determined that requiring the data comparison before departure of such vessels is impracticable because the requirement would conflict, in some instances, with the current APIS manifest data transmission requirements for vessel arrivals (which are to be retained in the regulations)(cited previously) and the current USCG NOA requirements (cited previously). Accordingly, DHS has elected to implement the waiver provided for in this section for arriving vessels.

The Terrorist Screening Center (TSC) and use of the consolidated terrorist watch list required by IRTPA provide the means to vet passenger and crew manifest data for known and suspected terrorists, including for flights to and from the United States and for cruise vessels subject to this regulation.

V. Impact on Parties Affected by the Proposed Rule

Should the proposed rule become final and effective, large air carriers (i.e., those with over 1,500 employees) will bear the greatest percentage of the regulatory burden of the proposed rule due to the number of international travelers these entities carry and their method of transmitting APIS data.

If carriers exercise the APIS 60 option, it is anticipated that any adverse impact on passengers would fall

disproportionately on connecting passengers (those arriving from a foreign airport and continuing on to a foreign destination and those making a connecting foreign flight en route to the U.S.), rather than on originating passengers.

Passengers conducting foreign travel, either coming to or leaving the United States, are instructed to check in for international flights well in advance, usually at least 2 hours prior to departure. Thus, 60 minutes prior to departure, most originating passengers' APIS data will have been collected and verified by the carriers and could thus be transmitted. Connecting passengers, however, may not have a full 2 hours between flights. Partnering airlines will likely share APIS information for an entire trip, but non-partner airlines may not. We believe, therefore, that under the APIS 60 option, a small number of connecting passengers may not make their flights, will be delayed, and will have to be rerouted. Alternatively, if large carriers use the AQQ option, delays to travelers will be minimized, but carriers will need to develop and implement their systems to support AQQ.

Under the proposed rule, small carriers may still use "eAPIS," a web-based application designed to electronically transmit manifests between small carriers and CBP. CBP does not believe that small carriers will develop and implement AQQ because they will not find it cost effective given their operations and their current utilization of eAPIS. Thus, small carriers will probably choose the APIS 60 option rather than the AQQ option.

While large carriers have connecting flights where affected passengers could face short layover times, small air carriers operate predominantly on charter schedules and make point-to-point trips without connecting flights. Accordingly, very few passengers traveling on small carriers will be delayed or rerouted as a result of this proposed rulemaking.

CBP does not know which carriers will choose which regulatory option. The Regulatory Assessment, summarized below in the "Executive Order 12866" section, presents two endpoints of the likely range of costs. For the "high cost estimate," CBP assumes that all carriers will employ the APIS 60 regulatory option (the 60-minute transmission requirement). For the "low cost estimate," CBP assumes that large carriers will employ the AQQ regulatory option.

The impacts on carriers, travelers, and others potentially affected by this rule are examined in detail in the "Regulatory Assessment" which is available in the docket for this rulemaking (*http://www.eparegulations.gov;* see also *http://www.cbp.gov*). CBP is soliciting comments on the assumptions and estimates made in the economic analysis.

VI. Regulatory Requirements

A. Executive Order 12866 (Regulatory Planning and Review)

This rule is considered to be an economically significant regulatory action under Executive Order 12866 because it may result in the expenditure of over $100 million in any one year. Accordingly, this proposed rule has been reviewed by the Office of Management and Budget (OMB). The following summary presents the costs and benefits of the proposed rule plus a range of alternatives considered. The complete "Regulatory Assessment" can be found in the docket for this rulemaking (*http://www.regulations.gov;* see also *http://www.cbp.gov*). Comments regarding the analysis may be submitted by any of the methods described under the **ADDRESSES** section of this document.

Summary

Should the proposed rule become final and effective, air carriers and air passengers will be the parties primarily affected by the proposed rule. For APIS 60, costs will be driven by the number of air travelers that will need to arrive at their originating airports earlier and the number of air travelers who miss connecting flights and require rerouting as a result. For AQQ, costs will be driven by implementation expenses, data transmission costs, and a small number of air travelers who miss connecting flights.

CBP estimates a range of costs in this analysis. For the high end of the range (i.e., under the APIS 60 procedure), CBP anticipates that passengers will provide APIS data upon check-in for their flights and that all carriers will transmit that data, as an entire passenger and crew manifest, to CBP at least 60 minutes prior to departure of the aircraft. CBP estimates that this will result in 2 percent of passengers on large carriers and 0.25 percent of passengers on small carriers missing connecting flights and needing to be rerouted, with an average delay of 4 hours. Additionally, we estimate that 15 percent of passengers will need to arrive at the airport an average of 15 minutes earlier in order to make their flights. For the low end of the range (under the AQQ procedure), we assume that all large air carriers will implement AQQ to transmit information on individual passengers as each checks in. CBP estimates that this will significantly drive down even further the percentage of passengers requiring rerouting on large carriers to 0.5 percent. Travelers will not need to modify their behavior to arrive at the airport earlier. The percentage on small carriers remains 0.25 percent because we assume that small carriers will not implement AQQ; rather, they will continue to submit manifests at least 60 minutes prior to departure through eAPIS, CBP's web-based application for small carriers. Thus, costs for small air carriers are the same regardless of the regulatory option considered.

The endpoints of this range are presented below. As shown, the present value (PV) costs of the proposed rule are estimated to range from $612 million to $1.9 billion over the next 10 years (2006–2015, 2005 dollars, 7 percent discount rate).

COSTS OF THE PROPOSED RULE

[$Millions, 2006–2015, 2005 dollars]

	High Estimate (60-minute option)			Low esimate (AQQ option)		
	Large carriers	Small carriers	Total	Large carriers	Small carriers	Total
First-Year Costs	$245	$5	$250	$184	$5	$189
Average Recurring Costs	268	6	274	66	6	72
10-Year PV Costs (7%)	1,865	39	1,904	573	39	612
10-Year PV Costs (3%)	2,279	48	2,327	677	48	726

We estimate four categories of benefits, or costs that could be avoided, under the APIS 60 procedure: (1) Costs for conducting interviews with identified high-risk individuals upon arrival in the United States; (2) costs for deporting a percentage of these individuals; (3) costs of delaying a high-risk aircraft at an airport; and (4) costs of rerouting aircraft if high-risk individuals are identified after takeoff. Monetizing the benefits of avoiding an actual terrorist incident has proven difficult because the damages caused by terrorism are a function of where the attack takes place, the nature of the attack, the number of people affected, the casualty rates, the psychological impacts of the attack, and, perhaps most importantly, the "ripple effects" as damages permeate throughout our society and economy far beyond the initial target. One limited scenario is presented below.

The average recurring benefits of the proposed rule are an estimated $15 million per year. This is in addition to the non-quantified security benefits, which are the primary impetus for this rule. Over the 10-year period of analysis, PV benefits are an estimated $105 million at a 7 percent discount rate ($128 million at a 3 percent discount rate).

Given the quantified costs and benefits of the proposed rule, we can determine how much non-quantified security benefits would have to be for this rule to be cost-beneficial. The 10-year costs range from $612 million to $1.9 billion, and the benefits are an estimated $103 million (all at the 7 percent discount rate). Thus, the non-quantified security benefits would have to be $509 million to $1.8 billion over the 10-year period in order for this proposed rule to be cost-beneficial. In one hypothetical security scenario involving only one aircraft and the people aboard, estimated costs of an incident could exceed $790 million. This rule may not prevent such an incident, but if it did, the value of preventing such a limited incident would outweigh the costs at the low end of the range. See the Regulatory Assessment at *http://www.regulations.gov* or *http://www.cbp.gov* for details of these calculations.

Regulatory Alternatives

CBP considered a number of regulatory alternatives to the proposed rule. Complete details regarding the costs and benefits of these alternatives can be found in the "Regulatory Assessment" available in the docket for this rulemaking (*http://www.regulations.gov;* see also *http://www.cbp.gov*). The following is a summary of these alternatives:

(1) Do not promulgate any further manifest transmission requirements (No Action)—the baseline case where carriers would continue to submit APIS manifests for arriving aircraft passengers 15 minutes after departure and, for departing aircraft passengers, 15 minutes prior to departure. There are no additional costs or benefits associated with this alternative. High-risk passengers would continue to board aircraft both destined to and departing from the United States, and instances of such aircraft departing with a high-risk passenger onboard would continue. As explained previously in this document, these results are inconsistent with the protective security objectives of ATSA, EBSA, and IRTPA. Because this is the status quo, and therefore has no additional costs or benefits, it is not analyzed further.

(2) A pre-departure transmission requirement—this would require carriers to submit manifests earlier than is required under the status quo requirements for flights to and from the United States. Transmission of manifest information would be made at least 30 minutes prior to departure. CBP concludes that 1 percent of passengers on large carriers would be delayed while no passengers on small carriers would be affected. We assume small carriers would not need to reroute any passengers under a pre-departure transmission requirement; accordingly, this alternative is a no-cost option for small carriers. We assume that 5 percent of travelers would need to arrive at the airport 15 minutes earlier than normal in order to make their flights.

For large carriers, transmission of manifest data at this time would not provide enough of a window for CBP to respond to a hit on the watch lists, regardless of the boarding time. Benefits of this alternative would be largely negated when compared to the proposed rule because the ability to intercept a high-risk individual before the boarding process begins would be severely limited. Because in many instances the high-risk passenger is likely to board under this alternative, the individual and his bags would have to be removed from the plane; in some circumstances, depending on the level of the threat, all remaining passengers and bags would have to be removed and re-screened and, in particularly urgent circumstances, the aircraft would have to be "re-sterilized" prior to re-boarding.

First-year costs are $111 million, average recurring costs are $122 million per year, and 10-year present value costs are $845 million (7 percent discount rate) and $1.0 billion (3 percent discount rate).

Benefits are slightly higher than the No Action alternative because while the boarding of a high-risk passenger would not be prevented, a high-risk individual would be identified prior to the departure of a flight to or from the United States in most instances. Benefits are lower than under the proposed rule because CBP would be unable to plan and coordinate a response before boarding begins, and thus the high-risk passenger could still board the aircraft. As explained previously in this document, these results would be inconsistent with the protective security objectives of ATSA, EBSA, and IRTPA.

(3) A 60-minute transmission requirement only during periods of heightened threat conditions—this rule would require carriers to submit manifest data 60 minutes prior to departure only during periods of heightened threat conditions. For this analysis, CBP assumes that the threat level could be elevated twice a year for 3 weeks per instance. Because foreign travelers coming to the United States may not be aware of the threat level prior to entering the country, CBP further assumes that the impacts of the alert would extend beyond the return to the lower threat level. Thus, the effects would last a total of 2 months a year. This alternative would probably cause a great deal of disruption due to the unanticipated need to provide information earlier at irregular intervals. Additionally, the threat of terrorism is continuous, and specific threat information on flights may not emerge. Thus, the risks would not likely be diminished sufficiently to justify the costs. Finally, an alternating system of manifest transmission timing would likely affect carrier performance, with performance ratings suffering during the infrequent, non-routine elevations in threat level, the more critical period.

In this scenario, the percentage of passengers delayed on large carriers is an estimated 10 percent and on small carriers is 2.5 percent. The average length of delay is 6 hours. We estimate that 15 percent of passengers would need to arrive at the airport 15 minutes early in order to make their flights. First-year costs are $225 million, average recurring costs are $246 million per year, and 10-year present value costs are $1.7 billion (7 percent discount rate) and $2.1 billion (3 percent discount rate).

Benefits are potentially the same as the "No Action" alternative most of the time because a high-risk individual

could be identified prior to boarding only during those very limited periods when the threat level is elevated and the 60-minute requirement is in effect. Benefits are potentially lower than under the proposed rule most of the time because high-risk passengers would be able to board the aircraft, and aircraft would depart with a high-risk passenger onboard, under the status quo procedure in effect during most of the year. Again, these results would be inconsistent with the protective security objectives of ATSA, EBSA, and IRTPA.

(4) A 60-minute transmission requirement or implementation of AQQ—this is the proposed rule, which requires carriers to elect to transmit, via an interactive communication system, passenger data under one of the two proposed options: by submitting manifests no later than 60 minutes prior to departure or, alternatively, by implementing APIS Quick Query. As explained previously in this document, the proposed rule provides sufficient time for fully vetting travelers, and achieving the appropriate levels of security desired, to be consistent with the protective security objectives of ATSA, EBSA, and IRTPA.

(5) A 120-minute transmission requirement—this rule would require carriers to submit manifests 120 minutes prior to departure. The costs would be higher than under the proposed rule because originating passengers, not just connecting passengers, would now be affected. High-risk passengers would be prevented from boarding aircraft. CBP would be able to more easily coordinate and plan a response to a hit on the watch lists well before the boarding process began.

This alternative would be quite disruptive because even though passengers and carriers would have the predictability of a pre-determined transmission time, passenger check-in at the original departure airport would be greatly affected. Instead of passengers checking in 2 hours prior to departure, carriers would have to advise passengers to arrive even earlier to assure timely manifest transmission.

We assume that 20 percent of passengers on large carriers and 5 percent of passengers on small carriers will be delayed an average of 6 hours and will need to be rerouted. We assume that 30 percent of passengers would need to arrive at the airport 1 hour earlier than previously. First-year costs are $3.2 billion, average recurring costs are $3.5 billion per year, and 10-year present value costs are $24.2 billion (7 percent discount rate) and $29.5 billion (3 percent discount rate).

Benefits are higher than the No Action alternative because a high-risk individual would be prevented from boarding or departing on an aircraft destined to or departing from the United States. Benefits are slightly higher than under the proposed rule because in some instances, the high-risk passenger's baggage would not reach the aircraft. Otherwise, the results achieved do not change appreciably given the extra time. Nonetheless, this procedure would be consistent with the protective security purposes of ATSA, EBSA, and IRTPA.

The following table summarizes the costs and benefits of the regulatory alternatives:

COMPARISON OF COSTS AND BENEFITS OF THE PROPOSED RULE AND REGULATORY ALTERNATIVES

	Pre-departure requirement	60-minute requirement only at elevated alert	Proposed rule		
			60-minute requirement	AQQ	120-minute requirement
First-Year Costs	$111 million	$225 million	$250 million	$189 million	$3.2 billion.
Average Recurring Costs.	$122 million	$246 million	$274 million	$72 million	$3.5 billion.
10-Year PV Costs (7%).	$845 million	$1.7 billion	$1.9 billion	$612 million	$24.2 billion.
10-Year PV Costs (3%).	$1.0 billion	$2.1 billion	$2.3 billion	$726 million	$29.5 billion.
Average Cost per Passenger.	$0.36–$1.55	$0.91–$3.11	$1.37–$3.45	$1.01–1.37	$17.39–$43.81
Benefits Comparison to "No Action".	Slightly higher (risk identified prior to take-off).	Comparable (risk may be identified prior to boarding and take-off if under elevated alert).	Higher (risk identified prior to boarding).	Higher (risk identified prior to boarding).	Higher (risk identified prior to boarding) .
Benefits Comparison to Pre-Boarding APIS Rule.	Lower (high-risk passenger may still board aircraft); CBP cannot coordinate or plan response.	Lower (high-risk passenger may still board aircraft).	Security benefits + $15 million in costs avoided annually.	Risk identified prior to check-in (higher benefits than 60-minute option).	Comparable (security benefits + $15 million in costs avoided annually).

CBP requests comments on the above analysis of the regulatory alternatives.

Accounting Statement

As required by OMB Circular A–4 (available at *http://www.whitehouse.gov/omb/circulars/index.html*, CBP has prepared an accounting statement showing the classification of the expenditures associated with this rule. The table provides our best estimate of the dollar amount of these costs and benefits, expressed in 2005 dollars, at three percent and seven percent discount rates. We estimate that the cost of this rule will be approximately million annualized (7 percent discount rate) and approximately $166.0 million annualized (3 percent discount rate). Quantified benefits are $15.0 million annualized. The non-quantified benefits are enhanced security.

ACCOUNTING STATEMENT: CLASSIFICATION OF EXPENDITURES, 2006 THROUGH 2015 (2005 DOLLARS)

[Three Percent Annual Discount Rate]

BENEFITS:	
Annualized monetized benefits	$15.0 million.
(Un-quantified) benefits	Enhanced security.
COSTS:	
Annualized monetized costs	$179.1 million.
Annualized quantified, but un-monetized costs.	
Qualitative (un-quantified) costs.	
Seven Percent Annual Discount Rate.	
BENEFITS:	
Annualized monetized benefits	$15.0 million.
(Un-quantified) benefits	Enhanced security.
COSTS:	
Annualized monetized costs	$178.9 million.
Annualized quantified, but un-monetized costs.	
Qualitative (un-quantified) costs.	

In accordance with the provisions of E.O. 12866, this regulation was reviewed by the Office of Management and Budget.

B. Regulatory Flexibility Act

We have examined the impacts of this proposed rulemaking on small entities as required by the Regulatory Flexibility Act. A small entity may be a small business (defined as any independently owned and operated business not dominant in its field that qualifies as a small business per the Small Business Act); a small not-for-profit organization; or a small governmental jurisdiction (locality with fewer than 50,000 people).

CBP has identified 773 small U.S. air carriers that could be affected by the proposed rule. We do not expect these carriers to experience great economic impacts as a result of the proposed rule. Small carriers do not need to modify their reservation systems nor do they have many connecting passengers who may miss their flights and require rerouting. We estimate that 0.25 percent of passengers on small carriers will be affected by this rule annually. In the April 2005 final rule (70 FR at 17846), CBP estimated that small carriers each transport an average of 300 passengers annually. Thus, less than 1 passenger per carrier per year will be affected by the proposed APIS 60 option. We calculate that the total cost of delay per passenger is $61.77, and only $4.57 of this is incurred by the air carrier. The aggregate costs of this rule's APIS option would not exceed $3,500 annually for each of the 773 small US-based carriers.

We conclude, therefore, that this rule will not have a significant impact on a substantial number of small entities.

The complete analysis of impacts to small entities is available on the CBP Web site at: *http://www.regulations.gov;* see also *http://www.cbp.gov.* Comments regarding the analysis may be submitted by any of the methods described under the **ADDRESSES** section of this document.

C. Unfunded Mandates Reform Act

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA), enacted as Pub. L. 104–4 on March 22, 1995, requires each Federal agency, to the extent permitted by law, to prepare a written assessment of the effects of any Federal mandate in a proposed or final agency rule that may result in the expenditure by State, local, and tribal governments, in the aggregate, or by the private sector, of $100 million or more (adjusted annually for inflation) in any one year. Section 204(a) of the UMRA, 2 U.S.C. 1534(a), requires the Federal agency to develop an effective process to permit timely input by elected officers (or their designees) of State, local, and tribal governments on a "significant intergovernmental mandate." A "significant intergovernmental mandate" under the UMRA is any provision in a Federal agency regulation that will impose an enforceable duty upon state, local, and tribal governments, in the aggregate, of $100 million (adjusted annually for inflation) in any one year. Section 203 of the UMRA, 2 U.S.C. 1533, which supplements section 204(a), provides that, before establishing any regulatory requirements that might significantly or uniquely affect small governments, the agency shall have developed a plan that, among other things, provides for notice to potentially affected small governments, if any, and for meaningful and timely opportunity to provide input in the development of regulatory proposals.

This proposed rule, if adopted as a final rule, would not impose any cost on small governments or significantly or uniquely affect small governments. However, as stated in the "Executive Order 12866" section of this document, CBP has determined that the rule would result in the expenditure by the private sector of $100 million or more (adjusted annually for inflation) in any one year and thus would constitute a significant regulatory action. Consequently, the provisions of this proposed rule constitute a private sector mandate under the UMRA. CBP's analysis of the cost impact on affected businesses, summarized in the "Executive Order 12866" section of this document and available for review by accessing *http://www.regulations.gov*; see also *http://www.cbp.gov*, is incorporated here by reference as the assessment required under Title II of the UMRA. CBP is requesting information from the public and the carriers regarding the costs this rule would impose on the private sector.

D. Executive Order 13132 (Federalism)

This proposed rule, if adopted as a final rule, would 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. Therefore, in accordance with Executive Order 13132, it is determined that this rule does not have sufficient federalism implications to warrant the preparation of a federalism summary impact statement.

E. Executive Order 12988 (Civil Justice Reform)

This proposed rule meets the applicable standards set forth in sections 3(a) and 3(b)(2) of Executive Order 12988. That Executive Order requires agencies to conduct reviews, before proposing legislation or promulgating regulations, to determine the impact of those proposals on civil justice and potential issues for litigation. The Order requires that

agencies make reasonable efforts to ensure the regulation clearly identifies preemptive effects, effects on existing federal laws and regulations, identifies any retroactive effects of the proposal, and other matters. DHS has determined that this regulation meets the requirements of Executive Order 12988 because it does not involve retroactive effects, preemptive effects, or other matters addressed in the Order.

F. National Environmental Policy Act

CBP has evaluated this proposed rule for purposes of the National Environmental Policy Act of 1969 (NEPA; 42 U.S.C. 4321 *et seq.*). CBP has determined that an environmental statement is not required, since this action is non-invasive and there is no potential impact of any kind. Record of this determination has been placed in the rulemaking docket.

G. Paperwork Reduction Act

In connection with the final rule recently published by CBP in April 2005, and discussed in this proposed rule, a Paperwork Reduction Act (PRA) analysis was set forth concerning the information collection involved under that rule (see OMB No. 1651–0088). This proposed rule, which proposes to amend the regulation as amended by the April 2005 final rule, has no effect on that analysis, as it does not impose an additional information collection burden or affect the information collected under the regulation in any relevant manner. This proposed rule affects only the timing and manner of the submission of the information already required under the regulation.

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. The collection of information relative to the provisions of the regulation proposed to be amended in this proposed rule, under 19 CFR 4.64, 122.49a, and 122.75a, is recorded with the Office of Management and Budget (OMB) under OMB No. 1651–0088.

H. Signing Authority

This amendment to the regulations is being issued in accordance with 19 CFR 0.2(a) pertaining to the authority of the Secretary of Homeland Security (or his delegate) to prescribe regulations not related to customs revenue functions.

I. Privacy Statement

A Privacy Impact Assessment (PIA) was published in the **Federal Register** (70 FR 17857) in conjunction with the April 7, 2005, APIS final rule (70 FR 17820). As the changes proposed in this rule do not impact the data collected or the use and storage of the data, and only affect the timing of data transmission, the existing System of Records Notice (SORN) (the Treasury Enforcement Communications System (TECS) published at 66 FR 53029) and the PIA continue to cover the collection, maintenance, and use of APIS data. CBP is preparing a separate SORN for APIS which will be published before a final rule is implemented following this proposed rule.

List of Subjects

19 CFR Part 4

Aliens, Customs duties and inspection, Immigration, Maritime carriers, Passenger vessels, Reporting and recordkeeping requirements, Vessels.

19 CFR Part 122

Air carriers, Aircraft, Airports, Air transportation, Commercial aircraft, Customs duties and inspection, Entry procedure, Reporting and recordkeeping requirements, Security measures.

Proposed Amendments to the Regulations

For the reasons stated in the preamble, parts 4 and 122 of the CBP Regulations (19 CFR parts 4 and 122) are proposed to be amended as follows:

PART 4—VESSELS IN FOREIGN AND DOMESTIC TRADES

1. The general authority citation for part 4 and the specific authority citation for § 4.64 continue to read as follows:

Authority: 5 U.S.C. 301; 19 U.S.C. 66, 1431, 1433, 1434, 1624; 2071 note; 46 U.S.C. App. 3, 91.

* * * * *

Section 4.64 also issued under 8 U.S.C. 1221;

* * * * *

2. Section 4.64 is amended in paragraph (b)(2)(i) by removing the words "no later than 15 minutes" and replacing them with the words "no later than 60 minutes".

PART 122—AIR COMMERCE REGULATIONS

3. The general authority citation for part 122 and the specific authority citations for § 122.49a and 122.75a continue to read as follows:

Authority: 5 U.S.C. 301; 19 U.S.C. 58b, 66, 1433, 1436, 1448, 1459, 1590, 1594, 1623, 1624, 1644, 1644a, 2071 note.

Section 122.49a also issued under 8 U.S.C. 1221, 19 U.S.C. 1431, 49 U.S.C. 44909.

* * * * *

Section 122.75a also issued under 8 U.S.C. 1221, 19 U.S.C. 1431.

* * * * *

4. Section 122.49a is amended by:

a. Revising the definition of "departure" in paragraph (a), and

b. Revising paragraphs (b)(1) and (b)(2) to read as follows:

§ 122.49a Electronic manifest requirement for passengers onboard commercial aircraft arriving in the United States.

(a) * * *

Departure. "Departure" means the moment at which the aircraft is pushed back from the gate for the purpose of commencing its approach to the point of take off.

* * * * *

(b) *Electronic arrival manifest*—(1) *General*—(i) *Basic requirement.* Except as provided in paragraph (c) of this section, an appropriate official of each commercial aircraft (carrier) arriving in the United States from any place outside the United States must transmit to Customs and Border Protection (CBP), by means of an electronic data interchange system approved by CBP, an electronic passenger arrival manifest covering all passengers checked in for the flight. A passenger manifest must be transmitted separately from a crew member manifest required under § 122.49b if transmission is in U.S. EDIFACT format. The passenger manifest must be transmitted to CBP at the place and time specified in paragraph (b)(2) of this section, in the manner set forth under either paragraph (b)(1)(ii)(A), (b)(1)(ii)(B), or (b)(1)(iii) of this section.

(ii) *Complete manifest option*—(A) *Interactive process.* A carrier operating under this paragraph (b)(1)(ii)(A) must transmit a complete manifest setting forth the information specified in paragraph (b)(3) of this section for all passengers checked in for the flight. After receipt of the manifest information, CBP will electronically send to the carrier a "not-cleared" instruction for passengers identified during security vetting as requiring additional security analysis. A carrier must not board any passenger subject to a "not-cleared" instruction, or any other passenger, or their baggage, unless cleared by CBP. Upon completion of the additional security analysis, CBP will electronically contact the carrier to clear a passenger for boarding should clearance be warranted by the results of that analysis. Where CBP is unable to complete the additional security analysis or respond to the carrier prior to departure of the aircraft, the carrier is bound by the "not-cleared" instruction. No later than 30 minutes after

departure, the carrier must transmit to CBP a unique identifier for each passenger that checked in but did not board the flight. Before operating under this paragraph, a carrier must receive a system certification from CBP indicating that its electronic system is capable of interactively communicating with CBP's system for effective transmission of manifest data and receipt of appropriate messages.

(B) *Manual (non-interactive) process.* A carrier operating under this paragraph (b)(1)(ii)(B) must transmit a complete manifest setting forth the information specified in paragraph (b)(3) of this section for all passengers checked in for the flight. After receipt of the manifest information, CBP will send to the carrier by a non-interactive manual transmission method a "not-cleared" instruction for passengers identified during security vetting as requiring additional security analysis. A carrier must not board any passenger subject to a "not-cleared" instruction, or any other passenger, or their baggage, unless cleared by CBP. Upon completion of the additional security analysis, CBP will contact the carrier to clear a passenger for boarding should clearance be warranted by the results of that analysis. Where CBP is unable to complete the additional security analysis or respond to the carrier prior to departure of the aircraft, the carrier is bound by the "not-cleared" instruction. No later than 30 minutes after departure, the carrier must transmit to CBP a unique identifier for each passenger who checked in but did not board the flight.

(iii) *Individual passenger information option.* A carrier operating under this paragraph (b)(1)(iii) must transmit the manifest data specified in paragraph (b)(3) of this section for each individual passenger as passengers check in for the flight. With each transmission of manifest information by the carrier, CBP will electronically send a "cleared" or "not-cleared" instruction, as appropriate, depending on the results of security vetting. A "not-cleared" instruction will be issued for passengers identified during the initial security vetting as requiring additional security analysis. The carrier must acknowledge receipt of a "not-cleared" instruction by electronic return message and must not issue a boarding pass to—or load the baggage of—any passenger subject to a "not-cleared" instruction or to any passenger not cleared by CBP. The carrier, at its discretion, may seek resolution of a "not-cleared" instruction by providing additional information relative to the passenger if available. Upon completion of the additional security analysis, CBP will electronically contact the carrier to clear a passenger for boarding should clearance be warranted by the results of that analysis. Where CBP is unable to complete the additional analysis or respond to the carrier before departure of the aircraft, the carrier will be bound by the "not-cleared" instruction. No later than 30 minutes after departure, the carrier must transmit to CBP a unique identifier for each passenger who checked in but did not board the flight. Before operating under this paragraph, a carrier must receive a system certification from CBP indicating that its electronic system is capable of interactively communicating with CBP's system for effective transmission of manifest data and receipt of appropriate messages.

(2) *Place and time for submission*—(i) *Complete manifests.* The appropriate official specified in paragraph (b)(1)(i) of this section (carrier) must transmit the complete electronic passenger arrival manifest as required under paragraph (b)(1)(ii) of this section to the CBP Data Center, CBP Headquarters:

(A) For flights not originally destined to the United States but diverted to a U.S. port due to an emergency, no later than 30 minutes prior to arrival; in cases of non-compliance, CBP will take into consideration whether the carrier was equipped to make the transmission and the circumstances of the emergency situation;

(B) For an aircraft operating as an air ambulance in service of a medical emergency, no later than 30 minutes prior to arrival; and

(C) For all flights not covered under paragraphs (b)(2)(i)(A) or (B) of this section, no later than 60 minutes prior to departure of the aircraft.

(ii) *Individual passenger information.* A carrier must transmit electronic passenger arrival manifest information as required under paragraph (b)(1)(iii) of this section as each passenger checks in for the flight, up to but no later than 15 minutes prior to departure of the aircraft.

* * * * *

5. Section 122.75a is amended by revising paragraphs (b)(1) and (b)(2), to read as follows:

§ 122.75a Electronic manifest requirements for passengers onboard commercial aircraft departing from the United States.

* * * * *

(b) *Electronic departure manifest*—(1) *General*—(i) *Basic requirement.* Except as provided in paragraph (c) of this section, an appropriate official of each commercial aircraft (carrier) departing from the United States en route to any port or place outside the United States must transmit to Customs and Border Protection (CBP), by means of an electronic data interchange system approved by CBP, an electronic passenger departure manifest covering all passengers checked-in for the flight. A passenger manifest must be transmitted separately from a crew member manifest required under § 122.75b if transmission is in U.S. EDIFACT format. The passenger manifest must be transmitted to CBP, at the place and time specified in paragraph (b)(2) of this section, in the manner set forth under either paragraph (b)(1)(ii)(A), (b)(1)(ii)(B), or (b)(1)(iii) of this section.

(ii) *Complete manifest option*—(A) *Interactive process.* A carrier operating under this paragraph (b)(1)(ii)(A) must transmit a complete manifest setting forth the information specified in paragraph (b)(3) of this section for all passengers checked-in for the flight. After receipt of the manifest information, CBP will electronically send to the carrier a "not-cleared" instruction for passengers identified during security vetting as requiring additional security analysis. A carrier must not board any passenger subject to a "not-cleared" instruction, or any other passenger, or their baggage, unless cleared by CBP. Upon completion of the additional security analysis, CBP will electronically contact the carrier to clear a passenger for boarding should clearance be warranted by the results of that analysis. Where CBP is unable to complete the additional security analysis or respond to the carrier prior to departure of the aircraft, the carrier is bound by the "not-cleared" instruction. No later than 30 minutes after departure, the carrier must transmit to CBP a unique identifier for each passenger who checked in but did not board the flight. Before operating under this paragraph, a carrier must receive a system certification from CBP indicating that its electronic system is capable of interactively communicating with CBP's system for effective transmission of manifest data and receipt of appropriate messages.

(B) *Manual (non-interactive) process.* A carrier operating under this paragraph (b)(1)(ii)(B) must transmit a complete manifest setting forth the information specified in paragraph (b)(3) of this section for all passengers checked in for the flight. After receipt of the manifest information, CBP will send to the carrier by a non-interactive manual transmission method a "not-cleared" instruction for passengers identified during security vetting as requiring additional security analysis. A carrier

must not board any passenger subject to a "not-cleared" instruction, or any other passenger, or their baggage, unless cleared by CBP. Upon completion of the additional security analysis, CBP will contact the carrier to clear a passenger for boarding should clearance be warranted by the results of that analysis. Where CBP is unable to complete the additional security analysis or respond to the carrier prior to departure of the aircraft, the carrier is bound by the "not-cleared" instruction. No later than 30 minutes after departure, the carrier must transmit to CBP a unique identifier for each passenger who checked in but did not board the flight.

(iii) *Individual passenger information option.* A carrier operating under this paragraph (b)(1)(iii) must transmit the manifest data specified in paragraph (b)(3) of this section for each individual passenger as passengers check in for the flight. With each transmission of manifest information by the carrier, CBP will electronically send a "cleared" or "not-cleared" instruction, as appropriate, depending on the results of security vetting. A "not-cleared" instruction will be issued for passengers identified during the initial security vetting as requiring additional security analysis. The carrier must acknowledge receipt of a "not-cleared" instruction by electronic return message and must not issue a boarding pass to—or load the baggage of—any passenger subject to a "not-cleared" instruction or to any passenger not cleared by CBP. The carrier, at its discretion, may seek resolution of a "not-cleared" instruction by providing additional information about the passenger, if available. Upon completion of the additional security analysis, CBP will electronically contact the carrier to clear a passenger for boarding should clearance be warranted by the results of that analysis. Where CBP is unable to complete the additional analysis or respond to the carrier before departure of the aircraft, the carrier will be bound by the "not-cleared" instruction. No later than 30 minutes after departure, the carrier must transmit to CBP a unique identifier for each passenger who checked in but did not board the flight. Before operating under this paragraph, a carrier must receive a system certification from CBP indicating that its electronic system is capable of interactively communicating with CBP's system for effective transmission of manifest data and receipt of appropriate messages.

(2) *Place and time for submission*—(i) *Complete manifests.* The appropriate official specified in paragraph (b)(1)(i) of this section (carrier) must transmit the complete electronic passenger departure manifest as required under paragraph (b)(1)(ii) of this section to the CBP Data Center, CBP Headquarters, no later than 60 minutes prior to departure of the aircraft from the United States, except that for an air ambulance in service of a medical emergency, the manifest must be transmitted to CBP no later than 30 minutes after departure.

(ii) *Individual passenger information.* The carrier must transmit electronic passenger departure manifest information as required under paragraph (b)(1)(iii) of this section as each passenger checks in for the flight, up to but no later than 15 minutes prior to departure of the aircraft.

* * * * *

Deborah J. Spero,

Acting Commissioner, Customs and Border Protection.

Approved: July 11, 2006.

Michael Chertoff,

Secretary.

[FR Doc. 06–6237 Filed 7–11–06; 3:00 pm]

BILLING CODE 9111–14–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R03–OAR–2005–0549; FRL–8196–9]

Approval and Promulgation of Air Quality Implementation Plans; Pennsylvania; Additional NO_X Emission Reductions To Support the Philadelphia-Trenton-Wilmington One-Hour Ozone Nonattainment Area, and Remaining NO_X SIP Call Requirements

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA is proposing to approve State Implementation Plan (SIP) revisions submitted by the Commonwealth of Pennsylvania. These revisions pertain to additional nitrogen oxides (NO_X) reductions that are required for the Commonwealth to support its approved attainment demonstration for the Philadelphia-Trenton-Wilmington one-hour ozone nonattainment area (the Philadelphia Area); NO_X reductions from stationary internal combustion (IC) engines required to meet the NO_X SIP Call Phase II (Phase II); and NO_X reductions from cement kilns to meet the NO_X SIP Call. The revisions also include provisions for emission credits for sources that generate zero-emission renewable energy. This action is being taken under the Clean Air Act (CAA or the Act).

DATES: Written comments must be received on or before August 14, 2006.

FOR FURTHER INFORMATION CONTACT: Marilyn Powers (215) 814–2308, or by e-mail at *powers.marilyn@epa.gov.*

ADDRESSES: Submit your comments, identified by Docket ID Number EPA–R037–OAR–2005–0549 by one of the following methods:

A. *http://www.regulations.gov.* Follow the on-line instructions for submitting comments.

B. *E-mail: morris.makeba@epa.gov*

C. *Mail:* EPA–R03–OAR–2005–0549, Makeba Morris, Chief, Air Quality Planning Branch, Mailcode 3AP21, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103.

D. *Hand Delivery:* At the previously-listed EPA Region III address. Such deliveries are only accepted during the Docket's normal hours of operation, and special arrangements should be made for deliveries of boxed information.

Instructions: Direct your comments to Docket ID No. EPA–R03–OAR–2005–0549. EPA's policy is that all comments received will be included in the public docket without change, and may be made available online at *http://www.regulations.gov,* including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through *www.regulations.gov* or e-mail. The *www.regulations.gov* website is an "anonymous access" system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through *www.regulations.gov,* your e-mail address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD–ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses.

Docket: All documents in the electronic docket are listed in the *www.regulations.gov* index. Although

listed in the index, some information is not publicly available, *i.e.*, CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically in *www.regulations.gov* or in hard copy during normal business hours at the Air Protection Division, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103. Copies of the State submittal are available at the Pennsylvania Department of Environmental Resources Bureau of Air Quality Control, P.O. Box 8468, 400 Market Street, Harrisburg, Pennsylvania 17105.

SUPPLEMENTARY INFORMATION: On March 29, 2005, the Pennsylvania Department of Environmental Protection (PADEP) submitted SIP revisions that amended Chapters 121, 129, and 145 of PADEP's air quality regulations under 25 Pa. Code Article III (Air Resources). Chapter 121 is amended to include new definitions associated with the revisions to Chapters 129 and 145. Chapter 129 is amended to include new Sections 129.201 through 129.204, which establishes ozone season NO_X emission limits for certain boilers, turbines, and stationary internal combustion engines that are small sources of NO_X in Bucks, Chester, Delaware, Montgomery, and Philadelphia counties (the five-county Southeast Pennsylvania Area). Chapter 129 also includes new § 129.205, which allows sources subject to § 129.201 through 129.203 to get emission credits for generating zero-emission renewable energy. Chapter 145 is amended to establish ozone season NO_X emission limits for large stationary IC engines and large cement kilns to satisfy the Commonwealth's remaining statewide obligations under the NO_X SIP Call (63 FR 57356, October 27, 1998). On February 6, 2006, PADEP submitted a supplementary letter clarifying certain provisions of the March 29, 2005 submission.

I. Background

A. Pennsylvania's Additional NO_X Emission Reduction Requirements for the Philadelphia Area

Pennsylvania's approved attainment demonstration for the Philadelphia Area included commitments for additional NO_X reductions, see 64 FR 70428, December 16, 1999 and 66 FR 54143, October 26, 2001. Revisions to Chapter 129 establish additional NO_X requirements for small sources of NO_X in the five-county Southeast Pennsylvania area. These requirements are based, in part, on a model rule developed by the Ozone Transport Commission (OTC) to address ozone problems in the Ozone Transport Region (OTR).

B. Pennsylvania's NO_X SIP Call Requirements

EPA issued the NO_X SIP Call (63 FR 57356, October 27, 1998) to require 22 Eastern states and the District of Columbia to reduce specified amounts of one of the main precursors of ground-level ozone, NO_X, in order to reduce interstate ozone transport. EPA found that the sources in these states emit NO_X in amounts that contribute significantly to nonattainment of the 1-hour ozone national ambient air quality standard (NAAQS) in downwind states. In the NO_X SIP Call, the amount of reductions required by states was calculated based on application of available, highly cost-effective controls on specific source categories of NO_X.

The NO_X SIP Call, including the Technical Amendments which addressed the 2007 electric generating units (EGU) budgets (64 FR 26298, May 14, 1999 and 65 FR 11222, March 2, 2000), was challenged by a number of state, industry, and labor groups. A summary of the NO_X SIP Call requirements, including details of the court decisions that were made in response to challenges to the rule and impacts of the court decisions on certain aspects of the rule may be found in EPA's rulemaking dated April 21, 2004 (69 FR 21604) entitled, "Interstate Ozone Transport: Response to Court Decisions on the NO_X SIP Call, NO_X SIP Call Technical Amendments, and Section 126 Rules." This rulemaking established States' requirements under Phase II of the NO_X SIP Call. The relevant portions of the April 21, 2004 rulemaking that affect Pennsylvania's obligations under the NO_X SIP Call, and that pertain to the State's requirements for Phase II, are discussed in this document to provide background on the March 29, 2005 SIP revision submitted by the PADEP.

On March 3, 2000, the United States Court of Appeals for the District of Columbia Circuit (DC Circuit) issued its decision on the NO_X SIP Call. *Michigan* v. *EPA*, 213 F.3rd 663 (DC Dir. 2000). While the DC Circuit ruled largely in favor of EPA in support of its requirements under the 1-hour ozone NAAQS, it also ruled, in part, against EPA on certain issues. The rulings against EPA included two areas of the NO_X SIP Call that were remanded and vacated and two areas in which EPA was found to have failed to provide adequate notice of changes in the rule. In the latter case, the rulings included a failure to provide adequate notice of the change in the definition of EGU as applied to cogeneration (cogen) units that supply electricity to a utility power distribution system for sale in certain specified amounts, and a failure to provide adequate notice of the change in the control level EPA assumed for large stationary internal combustion (IC) engines. The portions of the NO_X SIP Call that were upheld by the Court, including emission reductions associated with cement manufacturing, were termed "Phase I" of the rule. With the exception of the remand of the EGU growth factors used in the NO_X SIP Call and the requirements for the 8-hour ozone NAAQS (which EPA stayed due to uncertainty created by the court rulings), those portions of the NO_X SIP Call that had been remanded back to EPA were finalized in the April 21, 2004 rulemaking (69 FR 21604) and termed "Phase II" of the rule.

The Phase II rulemaking of April 21, 2004 finalized specific changes to the definition of EGUs as applied to cogen units, finalized the control levels assumed for large stationary IC engines in the NO_X SIP Call, adjusted states' total budgets downward to reflect emission reductions based upon the application of cost effective controls on stationary IC engines that emitted more than 153 tons of NO_X during the 1995 ozone season, (see 65 FR 1222, March 2, 2000), established a SIP submittal date of April 1, 2005 for states to address the Phase II portion of the budget, and set a compliance date of May 1, 2007 for affected sources to meet Phase II. This rulemaking established an incremental amount of additional NO_X reductions for each state based upon control levels of 82 percent for lean burn engines and 90 percent for rich burn, diesel and dual fuel engines.

The change to the definition of cogen units did not have an impact on the Phase I budget previously established for Pennsylvania. Therefore, in order to meet its NO_X SIP Call Phase II obligations, the State was required only to achieve the incremental reductions that EPA calculated based on controlling large, stationary IC engines to the prescribed levels.

In addition, as part of Phase I, cement manufacturing was determined to be one of the source categories having large contributions to transported emissions, with available, highly cost effective controls that can achieve NO_X reductions of 30 percent. Each State's overall NO_X budget reflected this level of control on cement kilns that emitted

more than 153 tons of NO_X during the 1995 ozone season, although a State has flexibility regarding which sources to control to meet the reductions.

C. Pennsylvania's Remaining Obligations Under the NO_X SIP Call

Pennsylvania's NO_X SIP Call Phase I trading program was approved as part of the Pennsylvania SIP on August 21, 2001 (66 FR 43795). The NO_X SIP Call reductions associated with cement manufacturing facilities and stationary internal combustion engines were not addressed in that rulemaking, therefore the Commonwealth was required to submit SIP revisions to address any additional emission reductions required to meet its overall emissions budget.

On March 29, 2005, the Commonwealth submitted a revision to its SIP to satisfy its remaining obligations under the NO_X SIP Call. The SIP revision requires NO_X emission reductions from large internal combustion engines and large cement kilns statewide.

II. Summary of SIP Revisions

A. Pennsylvania's Additional NO_X Emission Reductions in the Philadelphia Area

Amendments to Chapter 121 add definitions of megawatt-hour (MWH), parts per million dry volume (ppmvd), stationary internal combustion engine, tradable renewable certificate, and tradable renewable certificate issuing body.

Amendments to Chapter 129 are additional NO_X requirements submitted to satisfy the Commonwealth's commitments under the EPA-approved SIP revision for the Philadelphia area. These NO_X requirements establish additional emission reductions to support the attainment demonstration for the Philadelphia Area (64 FR 70428, December 16, 1999 and 66 FR 54143, October 26, 2001). The requirements of Chapter 129 are based, in part, on the model rule for additional NO_X control measures developed by the Ozone Transport Commission (OTC), of which Pennsylvania is a member. The OTC was created to address ozone problems in the Ozone Transport Region (OTR).

Chapter 129 establishes ozone season (May 1 through September 30) emission limits for NO_X from boilers with a rated capacity of greater than 100 million Btu/hour but less than or equal to 250 million Btu/hour; turbines with rated capacity of greater than 100 million Btu/hour; and stationary internal combustion engines rated at greater than 1,000 horsepower located at industrial, utility and commercial sites in the five-county Southeast Pennsylvania area. The emission limits are required to be implemented by May 1, 2005 and shall comply with Section 129.204 (relating to emission accountability).

Chapter 129 does not affect the large sources that are regulated under Chapter 145, Subchapter B (relating to emissions of NO_X from stationary internal combustion engines) and does not apply to the naval marine combustion units operated by the United States Navy for the purposes of testing and operational training, or to units permitted as resource recovery facilities. In addition, Chapter 129 establishes methods for determining NO_X allowable emissions for certain boilers, stationary combustion turbines and stationary internal combustion engines (relating to Sections 129.201–129.203). The owner or operator of a unit covered by these sections under Chapter 129 must calculate the difference between NO_X allowable emissions and NO_X actual emissions under § 129.204. Some boilers and turbines may demonstrate compliance though the opt-in process provisions of §§ 145.80–145.88.

The regulation states that an owner or operator may apply unused allowable emissions to its other facilities in the state, but if actual emissions exceed allowable emissions, NO_X allowances must be surrendered to the State by November 1 of each year starting in 2005. Failure to surrender the required allowances by this date triggers a requirement to surrender three allowances for every ton of excess NO_X emitted. These small NO_X sources are not part of the State's NO_X Budget Trading Program, do not receive allowances from the State's NO_X budget, and must therefore secure NO_X allowances on the open market.

Section 129.205 establishes provisions for zero-emission renewable energy production credits. It applies in the five-county Southeast Pennylvania area to an owner or operator of small sources of NO_X who generate zero-emission renewable energy. An owner or operator may deduct, from its actual emissions, an equivalent amount of NO_X emissions that would otherwise be emitted from thermal energy generated by conventional means, subject to conditions stipulated in this section, which the owner or operator must certify have been met.

For each ton of NO_X deducted under Section 129.205 (i.e., the credit for zero-emissions renewable energy produced), the Commonwealth will retire one NO_X allowance from its new source set-aside pool (under its NO_X Budget Trading Program) for the subsequent ozone season.

B. Pennsylvania's Emission Reductions Under Phase II of the NO_X SIP Call

Chapter 145, Interstate Pollution Transport Reduction Requirements (Pennsylvania's approved cap and trade program under the NO_X SIP Call), is revised by adding new Subchapter B, which establishes statewide ozone season NO_X emission limits for large stationary IC engines. Subchapter B, entitled Emissions of NO_X From Stationary Internal Combustion Engines, applies to the following types of engines that emitted 153 tons or more of NO_X from May 1 through September 30 in any year from 1995 through 2004. As of May 1, 2005, these sources must comply with the following emission limits from May 1 through September 30 of each year:

(1) For rich-burn stationary internal combustion engines having an engine rating equal to or greater than 2,400 brake horsepower, 1.5 grams NO_X per brake horsepower-hour,

(2) For lean burn stationary internal combustion engines having an engine rating equal to or greater than 2,400 brake horsepower, 3.0 grams per brake horsepower-hour, and

(3) For diesel stationary internal combustion engines with an engine rating equal to or greater than 3,000 brake horsepower and for dual-fuel stationary internal combustion engines with an engine rating equal to or greater than 4,400 brake horsepower, 2.3 grams NO_X per brake horsepower-hour. These emission limits are consistent with the control levels established in Phase II, and achieve the incremental reductions required from this source category.

Subchapter B also includes definitions, monitoring requirements, methods for calculating actual and allowable NO_X emissions, and includes requirements for surrender of NO_X allowances to the State when a unit has excess emissions.

C. Emission Reductions From Cement Manufacturing

To meet NO_X SIP Call reductions associated with cement manufacturing, Chapter 145 is revised by adding new Subchapter C, which establishes NO_X emission limits for cement kilns from May 1 through September 30 of each year, starting in 2005. The requirements apply statewide, and establish an emission limit of 6 pounds of NO_X per ton of clinker produced. As of October 31, 2005, it applies to any kiln that emitted 153 tons or more of NO_X from May 1 through September 30 in any year from 1995 through 2004. EPA's analysis of Pennsylvania's rule showed that this emission level, considered together with

the shut down of one kiln (Kosmos) and the emission reductions previously required on certain other kilns, meets the requirements of the NO_X SIP Call (see Technical Support Document for a detailed discussion and analysis of emission reductions from affected cement kilns in the Commonwealth). Subchapter C also includes applicability, new definitions, standard requirements for compliance monitoring, requirements for determining allowable and actual emissions, and includes requirements for surrender of NO_X allowances to the State when a unit has excess emissions.

III. Proposed Action

EPA is proposing to approve the SIP revisions submitted by the Commonwealth of Pennsylvania on March 29, 2005, and supplemented on February 6, 2006. EPA's review of the submittal indicates that the revisions to Chapter 121, addition of new Sections 129.201 though 129.205 (Additional NO_X Requirements), revision of Section 145.42 (pertaining to accountability of NO_X credit under Section 129.205), and addition of Subchapters B and C to Chapter 145 (pertaining to the State's remaining NO_X SIP Call obligations for IC engines and cement kilns, respectively), are approvable. These revisions strengthen the Pennsylvania SIP. EPA is soliciting public comments on the issues discussed in this document. These comments will be considered before taking final action.

IV. Statutory and Executive Order Reviews

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this proposed action is not a "significant regulatory action" and therefore is not subject to review by the Office of Management and Budget. For this reason, this action is also not subject to Executive Order 13211, "Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use" (66 FR 28355 (May 22, 2001)). This action merely proposes to approve state law as meeting Federal requirements and imposes no additional requirements beyond those imposed by state law. Accordingly, the Administrator certifies that this proposed rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). Because this rule proposes to approve pre-existing requirements under state law and does not impose any additional enforceable duty beyond that required by state law, it does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4). This proposed rule also does not have 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), nor will it have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132 (64 FR 43255, August 10, 1999), because it merely proposes to approve a state rule implementing a Federal requirement, and does not alter the relationship or the distribution of power and responsibilities established in the Clean Air Act. This proposed rule also is not subject to Executive Order 13045 (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. As required by section 3 of Executive Order 12988 (61 FR 4729, February 7, 1996), in issuing this proposed rule, EPA has taken the necessary steps to eliminate drafting errors and ambiguity, minimize potential litigation, and provide a clear legal standard for affected conduct. EPA has complied with Executive Order 12630 (53 FR 8859, March 15, 1988) by examining the takings implications of the rule in accordance with the "Attorney General's Supplemental Guidelines for the Evaluation of Risk and Avoidance of Unanticipated Takings" issued under the executive order.

This proposed rule to approve Pennsylvania's additional NO_X emission reductions for the Philadelphia Area and its remaining NO_X SIP Call requirements does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Nitrogen dioxide, Ozone, Reporting and recordkeeping requirements.

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

Dated: July 6, 2006

William T. Wisniewski,

Acting Regional Administrator, Region III.

[FR Doc. E6–11109 Filed 7–13–06; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[EPA–HQ–2006–0056; FRL–8075–4]

Bentazon, Carboxin, Dipropyl Isocinchomeronate, and Oil of Lemongrass (Oil of Lemon) and Oil of Orange; Proposed Tolerance Actions

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA is proposing to revoke certain tolerances for the fungicide carboxin, the insecticide dipropyl isocinchomeronate, and the fungicide/animal repellent oil of lemon (oil of lemongrass) and oil of orange. Also, EPA is proposing to modify certain tolerances for the herbicide bentazon and the fungicide carboxin. In addition, EPA is proposing to establish new tolerances for the herbicide bentazon. The regulatory actions proposed in this document are part of the Agency's reregistration program under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), and the tolerance reassessment requirements of the Federal Food, Drug, and Cosmetic Act (FFDCA) section 408(q), as amended by the Food Quality Protection Act (FQPA) of 1996. By law, EPA is required by August 2006 to reassess the tolerances that were in existence on August 2, 1996. No tolerance reassessments will be counted at the time of a final rule because tolerances in existence on August 2, 1996 that are associated with actions proposed herein were previously counted as reassessed at the time of the completed Reregistration Eligibility Decision (RED), Report of Food Quality Protection Act (FQPA) Tolerance Reassessment Progress and Risk Management Decision (TRED), or **Federal Register**.

DATES: Comments must be received on or before September 12, 2006.

ADDRESSES: Submit your comments, identified by docket identification (ID) number EPA–HQ–OPP–2006–0056, by one of the following methods:

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

Instructions: Direct your comments to docket ID number EPA–HQ–OPP–2006–0056. EPA's policy is that all comments received will be included in the docket without change and may be made available on-line at *http://www.regulations.gov*, including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through regulations.gov or e-mail. The Federal regulations.gov website is an "anonymous access" system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through regulations.gov, your e-mail address will be automatically captured and included as part of the comment that is placed in the docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD-ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses.

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

FOR FURTHER INFORMATION CONTACT: Monisha Dandridge, Special Review and Reregistration Division (7508P), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave, NW., Washington, DC 20460–0001; telephone number: (703) 308–0410; e-mail address: *dandridge.monisha@epa.gov*.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

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

- Crop production (NAICS code 111)
- Animal production (NAICS code 112)
- Food manufacturing (NAICS code 311)
- Pesticide manufacturing (NAICS code 32532)

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

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

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

2. *Tips for preparing your comments.* When submitting comments, remember to:

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

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

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

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

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

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

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

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

C. What Can I do if I Wish the Agency to Maintain a Tolerance that the Agency Proposes to Revoke?

This proposed rule provides a comment period of 60 days for any person to state an interest in retaining a tolerance proposed for revocation. If EPA receives a comment within the 60–day period to that effect, EPA will not proceed to revoke the tolerance immediately. However, EPA will take steps to ensure the submission of any needed supporting data and will issue an order in the **Federal Register** under FFDCA section 408(f) if needed. The order would specify data needed and the time frames for its submission, and would require that within 90 days some person or persons notify EPA that they will submit the data. If the data are not

submitted as required in the order, EPA will take appropriate action under FFDCA.

EPA issues a final rule after considering comments that are submitted in response to this proposed rule. In addition to submitting comments in response to this proposal, you may also submit an objection at the time of the final rule. If you fail to file an objection to the final rule within the time period specified, you will have waived the right to raise any issues resolved in the final rule. After the specified time, issues resolved in the final rule cannot be raised again in any subsequent proceedings.

II. Background

A. What Action is the Agency Taking?

EPA is proposing to revoke, modify and establish specific tolerances for residues of the herbicide bentazon, the fungicide carboxin, the insecticide dipropyl isocinchomeronate, and the fungicide/animal repellent oil of lemon (oil of lemongrass) and oil of orange in or on commodities listed in the regulatory text.

EPA is proposing these tolerance actions to implement the tolerance recommendations made during the reregistration and tolerance reassessment processes (including follow-up on canceled or additional uses of pesticides). As part of these processes, EPA is required to determine whether each of the amended tolerances meets the safety standard of the FQPA. The safety finding determination of "reasonable certainty of no harm" is discussed in detail in each Reregistration Eligibility Decision (RED) and Report of the FQPA Tolerance Reassessment Progress and Risk Management Decision (TRED) for the active ingredient. REDs and TREDs recommend the implementation of certain tolerance actions, including modifications to reflect current use patterns, meet safety findings, and change commodity names and groupings in accordance with new EPA policy. Printed copies of many REDs and TREDs may be obtained from EPA's National Service Center for Environmental Publications (EPA/NSCEP), P.O. Box 42419, Cincinnati, OH 45242–2419, telephone 1–800–490–9198; fax 1–513–489–8695; internet at *http://www.epa.gov/ncepihom* and from the National Technical Information Service (NTIS), 5285 Port Royal Road, Springfield, VA 22161, telephone 1–800–553–6847 or (703) 605–6000; internet at *http://www.ntis.gov*. Electronic copies of REDs and TREDs are available on the internet for bentazon, carboxin, dipropyl isocinchomeronate, and flower and vegetable oils (this refers to oil of lemongrass (oil of lemon) and oil of orange) at *http://www.epa.gov/pesticides/reregistration/status.htm*, and also for carboxin and dipropyl isocinchomeronate in public dockets EPA–HQ–OPP–2004–0233, EPA–HQ–OPP–2004–0124 and, EPA–HQ–OPP–2003–0123, respectively. Paper copies for bentazon and flower and vegetable oils, which includes oil of lemon (oil of lemongrass) and oil of orange, available in the public docket for this rule.

The selection of an individual tolerance level is based on crop field residue studies designed to produce the maximum residues under the existing or proposed product label. Generally, the level selected for a tolerance is a value slightly above the maximum residue found in such studies. The evaluation of whether a tolerance is safe is a separate inquiry. EPA recommends the raising of a tolerance when data show that (1) lawful use (sometimes through a label change) may result in a higher residue level on the commodity and (2) the tolerance remains safe, notwithstanding increased residue level allowed under the tolerance. In REDs, Chapter IV on "Risk Management, Reregistration, and Tolerance Reassessment" typically describes the regulatory position, FQPA assessment, cumulative safety determination, determination of safety for U.S. general population, and safety for infants and children. In particular, the human health risk assessment document which supports the RED describes risk exposure estimates and whether the Agency has concerns. In TREDs, the Agency discusses its evaluation of the dietary risk associated with the active ingredient and whether it can determine that there is a reasonable certainty (with appropriate mitigation) that no harm to any population subgroup will result from aggregate exposure.

Explanations for proposed modifications in tolerances can be found in the RED and TRED document and in more detail in the Residue Chemistry Chapter document which supports the RED and TRED. Copies of the Residue Chemistry Chapter documents are found in the Administrative Record and paper copies for carboxin can be found under its respective public docket number EPA–HQ–OPP–2004–0124, identified above. Paper copies for bentazon are available in the public docket for this rule. Because food use registrations have not existed for oil of lemon (oil of lemongrass), oil of orange, and dipropyl isocinchomeronate, the Agency residue assessment was not needed. Electronic copies are available through EPA's electronic public docket and comment system, regulations.gov at *http://www.regulations.gov*. You may search for this rule under docket number EPA–HQ–OPP—2006–0056, or for an individual chemical under its respective docket number, then click on that docket number to view its contents.

The aggregate exposures and risks are not of concern for the pesticide active ingredient bentazon, carboxin, dipropyl isocinchomeronate, and oil of lemon (oil of lemongrass) and oil of orange based upon the data identified in the RED or TRED, which lists the submitted studies that the Agency found acceptable.

EPA has found that the tolerances that are proposed in this document to be established or modified, are safe, i.e., that there is a reasonable certainty that no harm will result to infants and children from aggregate exposure to the pesticide chemical residues, in accordance with section 408(b)(2)(C). (Note that changes to tolerance nomenclature do not constitute modifications of tolerances). These findings are discussed in detail in each RED or TRED. The references are available for inspection as described in this document under **SUPPLEMENTARY INFORMATION.**

In addition, EPA is proposing to revoke certain specific tolerances because either they are no longer needed or are associated with food uses that are no longer registered under FIFRA. Those instances where registrations were canceled were because the registrant failed to pay the required maintenance fee and/or the registrant voluntarily canceled one or more registered uses of the pesticide. It is EPA's general practice to propose revocation of those tolerances for residues of pesticide active ingredients on crop uses for which there are no active registrations under FIFRA, unless any person in comments on the proposal indicates a need for the tolerance to cover residues in or on imported commodities or domestic commodities legally treated.

1. *Bentazon.* The available residue data for bentazon indicate that the established tolerances for cowpea, forage; pea, dry, seed; pea, field, hay; soybean, forage; and soybean, hay should be increased. Therefore, EPA is proposing to increase tolerances in 40 CFR 180.355(a)(1) for the residues of bentazon in or on cowpea, forage from 3.0 to 10.0 ppm; pea, dry, seed from 0.05 to 1.0 ppm; pea, field, hay from 3.0 to 8.0; soybean, forage from 3.0 to 8.0 ppm and soybean, hay from 3.0 to 8.0 ppm. The Agency has determined that

the increased tolerances are safe; i.e., there is no reasonable certainty that no harm will result from aggregate exposure to the pesticide chemical residue.

The Agency determined that the tolerance on pepper, nonbell should be decreased to 0.05 ppm, which is the limit of detection for bentazon residues of concern. Therefore, the Agency is proposing to decrease the tolerances in 40 CFR 180.355(a)(1) for the combined residues of bentazon and its metabolites in or on pepper, nonbell to 0.05 ppm.

The processing data on rice indicate the residues concentrate in hulls. Therefore, EPA is proposing to establish a tolerance in 40 CFR 180.355(a)(1) for the combined residues of bentazon and its metabolites in or on rice, hulls at 0.25 ppm.

In order to conform to current Agency policy on commodity terminology, EPA is proposing to modify the tolerance in 40 CFR 180.355(a)(1), for residues of bentazon in or on mint to peppermint, tops and spearmint, tops and maintain the tolerance level at 1.0 ppm.

2. *Carboxin.* According to the TRED, the tolerance expression, which is currently expressed as "combined residues of the fungicide carboxin (5,6-dihydro-2-methyl-1,4-oxathiin-3-carboxanilide) and its metabolite 5,6-dihydro-3-carboxanilide-2-meth yl-1,4-oxathiin-4-oxide (calculated as carboxin) (from treatment of seed prior to planting) in or on raw agricultural commodities as follows" in 40 CFR 180.301(a) should be modified. The residue chemistry data indicates that as crops mature, insoluble anilide complexes as well as polar metabolites increased. These complexes of carboxin or carboxin derivatives with macromolecules such as lignin are insoluble in water and organic solvents and liberate aniline upon hydrolysis. Further, analytical methods for detection of carboxin regulated residues produce aniline (convert carboxin and carboxin derived metabolite to aniline), which is determined either spectrophotometrically or by gas-liquid chromatography (GLC). Therefore, the residues of concern are carboxin, carboxin sulfoxide, and insoluble anilide complexes. Consequently, EPA is proposing that the tolerance expression in 40 CFR 180.301(a) read as follows: "(a) General. Tolerances are established for the combined residues of the fungicide carboxin (5,6-dihydro-2-methyl-1,4-oxathiin-3-carboxanilide) and its metabolites determined as aniline and expressed as parent compound, in or on food commodities as follows:"

Because bean forage, hay, and straw are no longer considered significant livestock feed stuffs and have been deleted from Table OPPTS 860.1000 (available at *http://www.epa.gov/opptsfrs/OPPTS_Harmonized/ 860_Residue_Chemistry_Test_Guidelines/Series);* the tolerances are no longer needed. Therefore, EPA is proposing to revoke the tolerances in 40 CFR 180.301(a) on bean, forage; bean, hay; and bean, straw.

Carboxin has had no active registrations for uses on sorghum over a period of many years. Therefore, EPA is proposing to revoke the tolerances in 40 CFR 180.301(a) for residues of carboxin in or on sorghum are no longer needed, EPA is proposing to revoke the tolerances in 40 CFR 180.301(a) for sorghum, forage; sorghum, grain; and sorghum, grain, stover.

Based on the ruminant feeding study, the lack of residues detected on the poultry feedstuff produced from treated seeds and the use of carboxin only as a fungicide on seeds indicate there is no propensity for residues to accumulate in animal tissues, the tolerance should be established at the level of quantitation of the analytical method of 0.05 ppm rather than the current tolerance level of 0.01 ppm. Therefore, EPA is proposing to increase the tolerances in 40 CFR 180.301(a) for combined residues of carboxin and its metabolites in or on egg from 0.01 to 0.05 ppm. The Agency has determined that the increased tolerances are safe; i.e., there is a reasonable certainty that no harm will result from aggregate exposure to the pesticide chemical residue.

Based on ^{14}C-radiolabeled dairy cattle feeding data at an exaggerated 1.15x feeding level, milk showed combined carboxin residues of concern. The ^{14}C-radiolabeled feeding study had a lower limit of quantitation (LOQ) than the enforcement method and therefore the tolerance should be established at the LOQ of the enforcement analytical method (0.05 ppm). Therefore, EPA is proposing to increase the tolerance in 40 CFR 180.301(a) for combined residues of carboxin and its metabolites in or on "milk" from 0.01 to 0.05 ppm. The Agency has determined that the increased tolerances are safe; i.e., there is a reasonable certainty that no harm will result from aggregate exposure to the pesticide chemical residue.

A dairy cattle feeding study conducted at an exaggerated (1.15x) feeding level, shows combined carboxin regulated residues were as low as 0.023 and 0.007 ppm in meat and fat. Therefore, EPA is proposing to decrease the tolerances in 40 CFR 180.301(a) for residues of carboxin in or on the meat and fat of cattle, goats, hogs, horses, and sheep from 0.01 to 0.05 ppm, respectively.

In order to conform to current Agency practice, EPA is proposing to revise the commodity terminology in 40 CFR 180.301(a), for residues of carboxin in or on corn, stover to read corn, field, stover; corn, pop, stover and corn, sweet, stover; corn, forage to corn, field, forage; and, corn, sweet, forage; "corn, fresh, including sweet corn, kernel plus cob with husks removed to read corn, sweet, kernel plus cob with husks removed; corn, grain to corn, field, grain and corn, pop, grain; oat, seed to read oat, grain; rice to rice, grain; and soybean to read soybean, seed.

3. *Dipropyl isocinchomeronate (MGK 326).* There have been no active registrations for uses associated with livestock or milk commodities since 1996, such that these tolerances are no longer needed, and therefore EPA is proposing to revoke the commodity tolerances in 40 CFR 180.143(a) for residues of dipropyl isocinchomeronate in or on cattle, fat; cattle, meat; cattle, meat byproducts; goat, fat; goat, meat; goat, meat byproducts; hog, fat; hog, meat; hog, meat byproducts; horse, fat; horse, meat; horse, meat byproducts; milk; sheep, fat; sheep, meat; and, sheep, meat byproducts.

4. *Oil of lemongrass (oil of lemon) and oil of orange.* Oil of lemon is not a registered pesticide active ingredient nor has it ever been an active ingredient in any pesticide product. However, the Agency has determined that the exemptions from the requirement of a tolerance under 40 CFR 180.1238 apply to Oil of lemongrass, which is a registered active ingredient included in the 1993 RED entitled Flower and Vegetable Oils. There have been no active food-use registrations within the past 10 years which contain either oil of lemongrass or oil of orange as pesticide active ingredients. Therefore, EPA is proposing to revoke the tolerance exemptions on raw agricultural commodities in 40 CFR 180.1238 and 180.1239 for oil of lemon (oil of lemongrass) and oil of orange, respectively, when used as a postharvest fungicide.

B. What is the Agency's Authority for Taking this Action?

A "tolerance" represents the maximum level for residues of pesticide chemicals legally allowed in or on raw agricultural commodities and processed foods. Section 408 of FFDCA, 21 U.S.C. 346a, as amended by the FQPA of 1996, Public Law 104–170, authorizes the establishment of tolerances, exemptions from tolerance requirements,

modifications in tolerances, and revocation of tolerances for residues of pesticide chemicals in or on raw agricultural commodities and processed foods. Without a tolerance or exemption, food containing pesticide residues is considered to be unsafe and therefore, "adulterated" under section 402(a) of the FFDCA, 21 U.S.C. 342(a). Such food may not be distributed in interstate commerce (21 U.S.C. 331(a)). For a food-use pesticide to be sold and distributed, the pesticide must not only have appropriate tolerances under the FFDCA, but also must be registered under FIFRA (7 U.S.C. 136 *et seq.*). Food-use pesticides not registered in the United States must have tolerances in order for commodities treated with those pesticides to be imported into the United States.

EPA is proposing these tolerance actions to implement the tolerance recommendations made during the reregistration and tolerance reassessment processes (including follow-up on canceled or additional uses of pesticides). As part of these processes, EPA is required to determine whether each of the amended tolerances meets the safety standard of the FQPA. The safety finding determination is discussed in detail in each post-FQPA RED and TRED for the active ingredient. REDs and TREDs recommend the implementation of certain tolerance actions, including modifications to reflect current use patterns, to meet safety findings, and change commodity names and groupings in accordance with new EPA policy. Printed and electronic copies of the REDs and TREDs are available as provided in Unit II.A.

EPA has issued a post-FQPA RED for carboxin and dipropyl isocinchomeronate (MGK 326), and a pre-FQPA RED for bentazon, whose tolerances were reassessed post-FQPA as part of the Agency's determination on March 8, 2000 (65 FR 12122) (FRL–6492–7) to establish new bentazon uses and therefore a TRED to reassess its tolerances was not needed. Also, EPA has issued a TRED for oil of lemongrass (oil of lemon) and oil of orange, as these active ingredients were part of the Flower and Vegetable Oils pre FQPA RED. REDs and TREDs contain the Agency's evaluation of the data base for these pesticides, including requirements for additional data on the active ingredients to confirm the potential human health and environmental risk assessments associated with current product uses, and in REDs state conditions under which these uses and products will be eligible for reregistration. The REDs and TREDs recommended the establishment, modification, and/or revocation of specific tolerances. RED and TRED recommendations such as establishing or modifying tolerances, and in some cases revoking tolerances, are the result of assessment under the FQPA standard of "reasonable certainty of no harm." However, tolerance revocations recommended in REDs and TREDs that are proposed in this document do not need such assessment when the tolerances are no longer necessary.

EPA's general practice is to propose revocation of tolerances for residues of pesticide active ingredients on crops for which FIFRA registrations no longer exist and on which the pesticide may therefore no longer be used in the United States. EPA has historically been concerned that retention of tolerances that are not necessary to cover residues in or on legally treated foods may encourage misuse of pesticides within the United States. Nonetheless, EPA will establish and maintain tolerances even when corresponding domestic uses are canceled if the tolerances, which EPA refers to as "import tolerances," are necessary to allow importation into the United States of food containing such pesticide residues. However, where there are no imported commodities that require these import tolerances, the Agency believes it is appropriate to revoke tolerances for unregistered pesticides in order to prevent potential misuse.

Furthermore, as a general matter, the Agency believes that retention of import tolerances not needed to cover any imported food may result in unnecessary restriction on trade of pesticides and foods. Under section 408 of the FFDCA, a tolerance may only be established or maintained if EPA determines that the tolerance is safe based on a number of factors, including an assessment of the aggregate exposure to the pesticide and an assessment of the cumulative effects of such pesticide and other substances that have a common mechanism of toxicity. In doing so, EPA must consider potential contributions to such exposure from all tolerances. If the cumulative risk is such that the tolerances in aggregate are not safe, then every one of these tolerances is potentially vulnerable to revocation. Furthermore, if unneeded tolerances are included in the aggregate and cumulative risk assessments, the estimated exposure to the pesticide would be inflated. Consequently, it may be more difficult for others to obtain needed tolerances or to register needed new uses. To avoid potential trade restrictions, the Agency is proposing to revoke tolerances for residues on crops uses for which FIFRA registrations no longer exist, unless someone expresses a need for such tolerances. Through this proposed rule, the Agency is inviting individuals who need these import tolerances to identify themselves and the tolerances that are needed to cover imported commodities.

Parties interested in retention of the tolerances should be aware that additional data may be needed to support retention. These parties should be aware that, under FFDCA section 408(f), if the Agency determines that additional information is reasonably required to support the continuation of a tolerance, EPA may require that parties interested in maintaining the tolerances provide the necessary information. If the requisite information is not submitted, EPA may issue an order revoking the tolerance at issue.

When EPA establishes tolerances for pesticide residues in or on raw agricultural commodities, consideration must be given to the possible residues of those chemicals in meat, milk, poultry, and/or eggs produced by animals that are fed agricultural products (for example, grain or hay) containing pesticides residues (40 CFR 180.6). When considering this possibility, EPA can conclude that:

1. Finite residues will exist in meat, milk, poultry, and/or eggs.
2. There is a reasonable expectation that finite residues will exist.
3. There is a reasonable expectation that finite residues will not exist. If there is no reasonable expectation of finite pesticide residues in or on meat, milk, poultry, or eggs, tolerances do not need to be established for these commodities (40 CFR 180.6(b) and (c)).

EPA has evaluated certain specific meat, milk, poultry, and egg tolerances proposed for revocation in this rule and has concluded that there is no reasonable expectation of finite pesticide residues of concern in or on those commodities.

C. When do These Actions Become Effective?

EPA is proposing that revocations, modifications, and establishments of tolerances, and commodity terminology revisions become effective on the date of publication of the final rule in the **Federal Register**. For this rule, proposed revocations will affect tolerances for uses which have been canceled for many years or are no longer needed. The Agency believes that treated commodities have had sufficient time for passage through the channels of trade. However, if EPA is presented with information that existing stocks would still be available and that

information is verified, the Agency will consider extending the expiration date of the tolerance. If you have comments regarding existing stocks and whether the effective date allows sufficient time for treated commodities to clear the channels of trade, please submit comments as described under **SUPPLEMENTARY INFORMATION.**

Any commodities listed in this proposal treated with the pesticides subject to this proposal, and in the channels of trade following the tolerance revocations, shall be subject to FFDCA section 408(1)(5), as established by FQPA. Under this section, any residues of these pesticides in or on such food shall not render the food adulterated so long as it is shown to the satisfaction of the Food and Drug Administration that: (1) The residue is present as the result of an application or use of the pesticide at a time and in a manner that was lawful under FIFRA, and (2) the residue does not exceed the level that was authorized at the time of the application or use to be present on the food under a tolerance or exemption from tolerance. Evidence to show that food was lawfully treated may include records that verify the dates when the pesticide was applied to such food.

D. What Is the Contribution to Tolerance Reassessment?

By law, EPA is required by August 3, 2006 to reassess the tolerances in existence on August 2, 1996. As of May 30, 2006, EPA has reassessed over 8,140 tolerances. Regarding tolerances mentioned in this proposed rule, tolerances in existence as of August 2, 1996 were previously counted as reassessed at the time of the signature completion of a post-FQPA RED or TRED for each active ingredient. Therefore, no further tolerance reassessments would be counted toward the August 2006 review deadline.

III. Are The Proposed Actions Consistent with International Obligations?

The tolerance revocations in this proposal are not discriminatory and are designed to ensure that both domestically-produced and imported foods meet the food safety standard established by the FFDCA. The same food safety standards apply to domestically produced and imported foods.

EPA is working to ensure that the U.S. tolerance reassessment program under FQPA does not disrupt international trade. EPA considers Codex Maximum Residue Limits (MRLs) in setting U.S. tolerances and in reassessing them. MRLs are established by the Codex Committee on Pesticide Residues, a committee within the Codex Alimentarius Commission, an international organization formed to promote the coordination of international food standards. It is EPA's policy to harmonize U.S. tolerances with Codex MRLs to the extent possible, provided that the MRLs achieve the level of protection required under FFDCA. EPA's effort to harmonize with Codex MRLs is summarized in the tolerance reassessment section of individual Reregistration Eligibility Decision documents. EPA has developed guidance concerning submissions for import tolerance support of June 1, 2000, (65 FR 35069 FRL–6559–3). This guidance will be made available to interested persons. Electronic copies are available on the internet at *http://www.epa.gov*. On the Home Page select "Laws, Regulations, and Dockets," then select Regulations and Proposed Rules and then look up the entry for this document under "**Federal Register**–Environmental Documents." You can also go directly to the "**Federal Register**" listings at *http://www.epa.gov/fedrgstr*.

IV. Statutory and Executive Order Reviews

In this proposed rule, EPA is proposing to establish tolerances under FFDCA section 408(e), and also modify and revoke specific tolerances established under FFDCA section 408. The Office of Management and Budget (OMB) has exempted these types of actions (i.e., establishment and modification of a tolerance and tolerance revocation for which extraordinary circumstances do not exist) from review under Executive Order 12866, entitled *Regulatory Planning and Review* (58 FR 51735, October 4, 1993). Because this proposed rule has been exempted from review under Executive Order 12866 due to its lack of significance, this proposed rule is not subject to Executive Order 13211, *Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use* (66 FR 28355, May 22, 2001). This proposed rule does not contain any information collections subject to OMB approval under the Paperwork Reduction Act (PRA), 44 U.S.C. 3501 *et seq.*, or impose any enforceable duty or contain any unfunded mandate as described under Title II of the Unfunded Mandates Reform Act of 1995 (UMRA) (Pub. Law 104–4). Nor does it require any special considerations as required by Executive Order 12898, entitled *Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations* (59 FR 7629, February 16, 1994); or OMB review or any other Agency action under Executive Order 13045, entitled *Protection of Children from Environmental Health Risks and Safety Risks* (62 FR 19885, April 23, 1997). This action does not involve any technical standards that would require Agency consideration of voluntary consensus standards pursuant to section 12(d) of the National Technology Transfer and Advancement Act of 1995 (NTTAA), Pub. Law 104–113, section 12(d) (15 U.S.C. 272 note). Pursuant to the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 *et seq.*), the Agency previously assessed whether establishment of tolerances, exemptions from tolerances, raising of tolerance levels, expansion of exemptions, or revocations might significantly impact a substantial number of small entities and concluded that, as a general matter, these actions do not impose a significant economic impact on a substantial number of small entities. These analyses for tolerance establishments and modifications, and for tolerance revocations were published on May 4, 1981 (46 FR 24950) and on December 17, 1997 (62 FR 66020), respectively, and were provided to the Chief Counsel for Advocacy of the Small Business Administration. Taking into account this analysis, and available information concerning the pesticides listed in this proposed rule, the Agency hereby certifies that this proposed action will not have a significant negative economic impact on a substantial number of small entities. In a memorandum dated May 25, 2001, EPA determined that eight conditions must all be satisfied in order for an import tolerance or tolerance exemption revocation to adversely affect a significant number of small entity importers, and that there is a negligible joint probability of all eight conditions holding simultaneously with respect to any particular revocation. (This Agency document is available in the docket of this proposed rule). Furthermore, for the pesticide named in this proposed rule, the Agency knows of no extraordinary circumstances that exist as to the present proposal that would change the EPA's previous analysis. Any comments about the Agency's determination should be submitted to the EPA along with comments on the proposal, and will be addressed prior to issuing a final rule. In addition, the Agency has determined that this action will not have a substantial direct effect on States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various

levels of government, as specified in Executive Order 13132, entitled *Federalism* (64 FR 43255, August 10, 1999). Executive Order 13132 requires EPA to develop an accountable process to ensure "meaningful and timely input by State and local officials in the development of regulatory policies that have federalism implications." "Policies that have federalism implications" is defined in the Executive order to include regulations that have "substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government." This proposed rule directly regulates growers, food processors, food handlers and food retailers, not States. This action does not alter the relationships or distribution of power and responsibilities established by Congress in the preemption provisions of section 408(n)(4) of the FFDCA. For these same reasons, the Agency has determined that this proposed rule does not have any "tribal implications" as described in Executive Order 13175, entitled *Consultation and Coordination with Indian Tribal Governments* (65 FR 67249, November 6, 2000). Executive Order 13175, requires EPA to develop an accountable process to ensure "meaningful and timely input by tribal officials in the development of regulatory policies that have tribal implications." "Policies that have tribal implications" is defined in the Executive order to include regulations that have "substantial direct effects on one or more Indian tribes, on the relationship between the Federal Government and the Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes." This proposed rule will not have substantial direct effects on tribal governments, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes, as specified in Executive Order 13175. Thus, Executive Order 13175 does not apply to this proposed rule.

List of Subjects in 40 CFR Part 180

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

Dated: July 5, 2006.

James Jones,

Director, Office of Pesticide Programs.

Therefore, it is proposed that 40 CFR chapter I be amended as follows:

PART 180—[AMENDED]

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

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

§ 180.143 [Removed]

2. Section 180.143 is removed.

3. Section 180.301 is amended by revising paragraph (a) to read as follows:

§180.301 Carboxin; tolerances for residues.

(a) *General.* Tolerances are established for the combined residues of the fungicide carboxin (5,6-dihydro-2-methyl-1,4-oxathiin-3-carboxanilide) and its metabolites determined as aniline and expressed as parent compound, in or on food commodities as follows:

Commodity	Parts per million
Barley, grain	0.2
Barley, straw	0.2
Bean, dry, seed	0.2
Bean, succulent	0.2
Canola, seed	0.03
Cattle, fat	0.05
Cattle, meat	0.05
Cattle, meat byproducts	0.1
Corn, field, forage	0.2
Corn, field, grain	0.2
Corn, field, stover	0.2
Corn, pop, grain	0.2
Corn, pop, stover	0.2
Corn, sweet, forage	0.2
Corn, sweet, kernel plus cob with husks removed	0.2
Corn, sweet, stover	0.2
Cotton, undelinted seed	0.2
Egg	0.05
Goat, fat	0.05
Goat, meat	0.05
Goat, meat byproducts	0.1
Hog, fat	0.05
Hog, meat	0.05
Hog, meat byproducts	0.1
Horse, fat	0.05
Horse, meat	0.05
Horse, meat byproducts	0.1
Milk	0.05
Oat, forage	0.5
Oat, grain	0.2
Oat, straw	0.2
Onion, bulb	0.2
Peanut	0.2
Peanut, hay	0.2
Poultry, fat	0.1
Poultry, meat	0.1
Poultry, meat byproducts	0.1
Rice, grain	0.2
Rice, straw	0.2
Safflower, seed	0.2
Sheep, fat	0.05
Sheep, meat	0.05
Sheep, meat byproducts	0.1
Soybean, seed	0.2
Wheat, forage	0.5
Wheat, grain	0.2
Wheat, straw	0.2

* * * * *

4. Section 180.355 is amended by revising the table in paragraph (a) to read as follows:

§180.355 Bentazon; tolerances for residues.

(a) *General.* * * *

Commodity	Parts per million
Bean, dry, seed	0.05
Bean, succulent	0.5
Corn, field, forage	3.0
Corn, field, grain	0.05
Corn, field, stover	3.0
Corn, pop, grain	0.05
Corn, sweet, kernel plus cob with husks removed	0.05
Cowpea, forage	10.0
Cowpea, hay	3.0
Flax, seed	1.0
Pea, dry, seed	1.0
Pea, field, hay	8.0
Pea, field, vines	3.0
Pea, succulent	3.0
Peanut	0.05
Peanut, hay	3.0
Pepper, nonbell	0.05
Peppermint, tops	1.0
Rice, grain	0.05
Rice, hulls	0.25
Rice, straw	3.0
Sorghum, forage	0.20
Sorghum, grain	0.05
Sorghum, grain, stover	0.05
Soybean, seed	0.05
Soybean, forage	8.0
Soybean, hay	8.0
Spearmint, tops	1.0

* * * * *

§§180.1238 and 180.1239 [Removed]

5. Sections 180.1238 and 180.1239 are removed.

[FR Doc. E6–11016 Filed 7–13–06; 8:45 am]

BILLING CODE 6560–50–S

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

49 CFR Part 571

[Docket No. NHTSA 2006–24342]

Federal Motor Vehicle Safety Standards

AGENCY: National Highway Traffic Safety Administration (NHTSA), DOT.

ACTION: Denial of Petitions for Rulemaking and Defect Determination.

SUMMARY: This document denies a petition for rulemaking and defect determinations submitted by Mr. James E. Hofferberth to prevent the installation by States of seat belts in large school buses and declare school buses equipped with seat belts to be safety defects. After reviewing the petition, NHTSA concludes that there is no justification for changing its longstanding position that States may require seat belts at passenger seating positions in large public school buses. We also conclude that there is no basis to declare that school buses equipped with seat belts have safety-related defects, or to recall existing school buses installed with seat belts. The petitioner did not provide any data that NHTSA has not considered in the past.

FOR FURTHER INFORMATION CONTACT: For legal issues: Ms. Dorothy Nakama, Office of the Chief Counsel, phone (202) 366–2992.

For technical issues: Mr. Charles R. Hott, Office of Crashworthiness Standards, NVS–113, phone (202) 366–0247.

You can reach both of these officials at the National Highway Traffic Safety Administration, 400 Seventh St., SW., Washington, DC 20590.

SUPPLEMENTARY INFORMATION: On April 26, 2005, NHTSA received a petition from Mr. James E. Hofferberth to preempt and prevent the installation of seat belts in large school buses (gross vehicle weight rating greater than 4,536 kg (10,000 pounds) (also called "full-sized school buses" by the petitioner) and declare school buses equipped with seat belts defective. He petitioned to:

1. Preempt, prevent and preclude the possibility of the installation of seat belts or safety belts in full sized school buses.

2. Declare school buses equipped with seat belts or safety belts as defective relative to safety and order that all such vehicles be recalled and repaired immediately to full compliance with letter and intent of the applicable motor vehicle safety standard.

3. Initiate criminal, civil or any alternative punitive action available to [the Secretary of Transportation] under the law against any individual or organization that ordered or performed the installation of seat belts or safety belts in school buses.

4. Require that any device installed in full sized school buses be proven to neither reduce the overall safety of children of all relevant sizes and ages during transportation related to school activities with due consideration to all factors affecting that safety nor preclude or diminish in any way the safety provision of the motor vehicle safety standards related to school buses.

In his petition, Mr. Hofferberth stated his belief that several State and local governments have enacted or are considering requirements for seat belts or safety belts in full sized school buses, that full sized school buses are subject to established Federal motor vehicle safety standards (FMVSS), that installation of seat belts or safety belts in full sized school buses overrides or precludes the effectiveness of the safety features required in full sized school buses, and that the installation of seat belts or safety belts in full sized school buses creates an unnecessary and unacceptable risk of injury and fatality to school bus passengers.

He also submitted supplemental information and analysis on November 16, 2005 [1]. He reviewed cited tests in the agency's April 2002 report to Congress, "School Bus Safety: Crashworthiness Research," and concluded that abdominal injury measurements, which he alleged were not included in the report to Congress, for lap and shoulder belted occupants were between 1.6 and 2.3 times higher than for comparable unbelted occupants. For lap belted occupants, he stated that the abdominal injury measurements were between 2.9 and 5.6 times higher than for comparable unbelted occupants, and that these loadings of the belted occupants were well above the threshold of serious to fatal injury. He stated that abdominal loading of the unbelted child was 135 pounds, and this type of loading is substantially less injurious than when belts are used to apply the loads, and would not be likely to cause serious abdominal injury. He believed that the increases in injury severity for belted occupants are consistent with "seat belt syndrome" and provided a bibliography of various research reports and articles on the subject.

Mr. Hofferberth argued that the modification of standard seats to accommodate belt loading increased the head, neck and chest injury readings for all unbelted occupants and degraded the level of safety performance provided by standard seats designed for use with the compartmentalization requirements of FMVSS No. 222.

The petitioner stated that section 103(d) of the National Traffic and Motor Vehicle Safety Act (recodified at 49 U.S.C. 30103(b)) provides that no "State or political subdivisions [sic] of a State shall have any authority either to establish or continue in effect, with respect to any motor vehicle or item of motor vehicle equipment any motor vehicle [sic] safety standard applicable to the same aspect of [performance of such vehicle or item of] equipment which is not identical to the Federal standard." It was his opinion that the "aspect" which overlaps the "motor vehicle or item of motor vehicle equipment" regulated by FMVSS No. 222 is the level of injury protection provided by the school buses and the compartmentalization restraint equipment and performance required by FMVSS No. 222. Therefore, he argued that FMVSS No. 222 preempts all State and local requirements relating to the installation of belt restraints in full size school buses, and that the use of belt restraints installed in full size school buses should be prohibited until such time as the belts can be removed or otherwise rendered inoperable.

[1] For a full copy of Mr. Hofferberth's supplemental information, please refer to *dms.dot.gov* (Docket Number 24342).

Analysis of the Petition for Rulemaking

The agency has conducted a review of the rulemaking petition in accordance with 49 CFR Section 552.6. We are denying the petition, based on that review.

NHTSA is responsible for establishing Federal motor vehicle safety standards (FMVSSs) to reduce the number of fatalities and injuries from motor vehicle crashes, including those involving school buses. NHTSA also works with the States on school bus safety and occupant protection programs. New school buses must meet safety standards for various aspects of school bus safety, including the passenger crash protection requirements of FMVSS No. 222. Rather than requiring passenger seat belts on large school buses, FMVSS No. 222 provides crash protection through a concept called "compartmentalization." Children are compartmentalized in a protective envelope consisting of strong, closely-spaced seats that have energy-absorbing seat backs. Through compartmentalization, children are protected without the need to buckle up.

Currently, there are four States that require seat belts in all school buses. New York, New Jersey and Florida require lap belts, and California requires lap and shoulder belts in all school buses. NHTSA does not maintain a record of local school boards that also may require seat belts on buses. However, a University of South Florida

(USF) study [2] revealed that many districts might require such systems even though it is not mandatory in their State. At the time of the USF study, only New York required seat belts in all school buses.

Federal preemption of State motor vehicle safety standards is governed by Section 30103(b) of 49 U.S.C. 30101 et seq. (the "Vehicle Safety Act"). Section 30103(b)(1) states:

> When a motor vehicle safety standard is in effect under this chapter [49 USCS §§ 30101 et seq.], a State or a political subdivision of a State may prescribe or continue in effect a standard applicable to the same aspect of performance of a motor vehicle or motor vehicle equipment only if the standard is identical to the standard prescribed under this chapter [49 USCS §§ 30101 et seq.]. However, the United States Government, a State, or a political subdivision of a State may prescribe a standard for a motor vehicle or motor vehicle equipment obtained for its own use that imposes a higher performance requirement than that required by the otherwise applicable standard under this chapter [49 USCS §§ 30101 et seq.].

NHTSA has previously addressed the preemption issue raised by the petitioner [3]. A State law that requires seat belts on all large school buses conflicts with FMVSS No. 222 and is preempted. However, the last sentence of § 30103(b) permits a State to prescribe a standard for school buses obtained for its own use that imposes a higher performance requirement than that required by the otherwise applicable FMVSS. (We have interpreted the phrase "vehicles procured for (the State's) own use" to include public school buses and those under contract to transport children to and from public school. However, school buses purchased by private schools would not be included). Thus, as the last sentence of § 30103(b) makes clear, States are free to require seat belts on school buses which the State purchases for its own use.

NHTSA has permitted the co-existence of seat belts with compartmentalization requirements on large school buses since the beginning of FMVSS No. 222. NHTSA published the final rule establishing FMVSS No. 222 on January 28, 1976 (41 FR 4016). This regulation became effective for all newly manufactured school buses on and after April 1, 1977. In the rulemaking leading to the 1976 final rule, four notices of proposed rulemaking (NPRM) were published.[4] Throughout the course of that rulemaking, the issue of requiring seat belts and/or belt anchorages on large school buses was extensively contemplated. Although the agency decided not to require the belts or anchorage systems, the agency clearly intended to allow State and local jurisdictions the choice of installing seat belts. For example [5], in the October 1975 NPRM, the agency confirmed State and local jurisdictional choice to install belts when it stated (46 FR at 45171):

> A greater measure of protection may be obtained [over compartmentalization alone] if a particular end user chooses to use the anchorages by installation of seat belts together with a system to assure that seat belts are worn, properly adjusted, and not misused. School bus users are free to choose whether or not to install belts.

NHTSA has consistently construed the FMVSS as not preempting State requirements concerning seat belts in large school buses where there is no showing that those requirements adversely impact compliance with the FMVSS. Seat belts on large school buses can be considered to satisfy the "higher performance" threshold of the last sentence of § 30103(b) because, when properly worn, they can supplement compartmentalization by restraining passengers in crashes other than frontal crashes, e.g., in rollovers. In its 1999 report on seat belts on large school buses, the National Transportation Safety Board (NTSB) [6] concluded that the compartmentalization requirement for school buses in FMVSS No. 222 is incomplete because it does not protect school bus passengers in rollovers or in lateral impacts from large vehicles, because in such accidents passengers do not always remain completely within the seating compartment. Despite the NTSB conclusion, NHTSA has not found that a sufficient safety need exists with respect to those non-frontal crashes to warrant requiring seat belts on large school buses.[7] However, we have always permitted States to choose to require the safety devices over and above the Federal requirements in the school buses they purchase.

NHTSA's April 2002 report to Congress [8] found that the addition of lap belts slightly raised the potential risk for head injury. However, these were *severe* frontal impacts that were studied for the report. Conversely, lap belts have been on large school buses for over 30 years without any documented injuries resulting from the use of the seat belt restraint systems.[9] We cannot make a determination, based on the results of limited testing with belt restraints in a severe frontal condition that showed performance only slightly reduced from that of compartmentalization, that the addition of seat belts in large school buses reduces overall occupant protection.

As for abdominal loading, NHTSA does not know the basis for the petitioner's conclusions regarding the significance of the dummy abdominal measures. The abdominal measurements made in these tests were for comparative research purposes, have not been biomechanically validated, and have no injury criteria associated with them. This was discussed on page 43 of the report to Congress.

School buses constitute a very safe form of transportation. A recent NAS study [10] shows that there are about 815 school transportation fatal injuries per year. Only 2 percent are associated with school buses, compared to 22 percent due to walking/bicycling, and 75 percent from passenger car transportation. Every year, approximately 450,000 public school buses travel about 4.3 billion miles to transport 23.5 million children to and

---

[2] "To Belt or Not To Belt, Experiences of School Districts that Operate Large School Buses Equipped with Seat Belts," Final Report, August 1994, Center for Urban Transportation Research, College of Engineering, University of South Florida.

[3] Denial of Petition for Rulemaking, September 10, 1981 46 FR 4571, interpretation letter to Mr. Martin Chauvin, February 20, 1987.

[4] February 22, 1973 (38 FR 4776), July 30, 1974 (39 FR 27586), April 23, 1975 (40 FR 17855) and October 8, 1975 (40 FR 47141).

[5] See also April 23, 1975 NPRM, in which NHTSA proposed (but subsequently did not adopt) a provision for built-in seat belt anchorages in addition to compartmentalization requirements stating that it "finds it-desirable to allow local school boards the option of installing belts, if they decide the additional protection is worth the extra expense."

[6] NTSB/SIR–99/04, Highway Safety Report, Bus Crashworthiness Issues, September 1999, National Transportation Safety Board.

[7] In its 1987 report on the crashworthiness of large, post-April 1, 1977 school buses, NTSB concluded that passengers in the cases studied would have received no net benefit from lap belt use, and that most of the severe injuries and fatalities were due to passengers being seated directly in the impact zone (NTSB/SS–87/01, Safety Study, Crashworthiness of Large Post-standard School Buses, March 1987, National Transportation Safety Board). Likewise, the National Academy of Sciences (NAS) concluded that the overall potential benefits of requiring seat belts on large school buses are insufficient to justify a Federal requirement for mandatory installation. Special Report 222, Improving School Bus Safety, National Academy of Sciences, Transportation Research Board, Washington, DC, 1989. NAS also stated that the funds used to purchase and maintain seat belts might better be spent on other school bus safety programs and devices that could save more lives and reduce more injuries.

[8] School Bus Safety: Crashworthiness Research, National Highway Traffic Safety Administration, April 2002.

[9] Crash data show that there are approximately 26,000 school bus crashes annually, involved in frontal, side, rear, and rollover collisions.

[10] Special Report 269, "The Relative Risks of School Travel: A National Perspective and Guidance for Local Community Risk Assessment," Transportation Research Board of the National Academies, 2002.

from school and school-related activities. The school bus occupant fatality rate of 0.2 fatalities per 100 million vehicle miles traveled (VMT) is much lower than the rates for passenger cars (1.46 per 100 million VMT) or light trucks and vans (1.3 per 100 million VMT). These results reflect the safety record of large school buses that, for the most part, are not being fitted with any seat belts at passenger seating positions.

The petitioner believes that the dollars spent installing belts on large school buses could be more effectively spent purchasing additional buses to transport more children in the safest means available (in school buses). On our Web site information about seat belts in large school buses [11], NHTSA does advise consideration of the overall safety consequences of bus purchasing decisions, to ensure that seat belt restraints are worn properly, and that no child is left seeking a less safe form of transportation. At the same time, the agency concludes that there is no justification for changing its longstanding position that States may order seat belts at passenger seating positions in large public school buses. For these reasons, and since the petitioner did not provide any data that NHTSA has not considered in the past, the agency is denying the rulemaking petition.

[11] *Http://www.nhtsa.dot.gov*: click Traffic Safety tab: click School Buses under Browse Topics menu: click Seat Belts On School Buses

Analysis of the Petition for Defect Determination

The agency has conducted a technical review of the defect petition in accordance with 49 CFR 552.6. The Office of Defects Investigation (ODI) reviewed its databases for reports and complaints related to alleged problems with school buses equipped with seat belts. That review did not reveal any reports or complaints that would warrant opening a safety-related defects investigation. Moreover, the petitioner has not presented any data or argument that supports his basis for concluding that seat belts may pose an unreasonable risk to the safety of occupants of those buses. Based on ODI's review and lack of data to the contrary, the agency believes that there is insufficient data to warrant NHTSA commencing a defect investigation and is denying the petition.

Authority: 49 U.S.C. 322, 30111, 30115, 30117, 30118, and 30162; delegation of authority at 49 CFR 1.50 and 501.8.

Issued on: July 10, 2006.

Stephen R. Kratzke,

Associate Administrator for Rulemaking.

Daniel C. Smith,

Associate Administrator for Enforcement.

[FR Doc. E6–11136 Filed 7–13–06; 8:45 am]

BILLING CODE 4910–59–P

Notices

Federal Register
Vol. 71, No. 135
Friday, July 14, 2006

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Forest Service

Information Collection; Request for Comment; Youth Conservation Corps

AGENCY: Forest Service, USDA.
ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, the Forest Service is seeking comments from all interested individuals and organizations on the extension of a currently approved information collection, Youth Conservation Corps. The collected information will help the Forest Service evaluate the employment eligibility of youth 15–18 years old through the Youth Conservation Corps Program. Under this Program, the Forest Service cooperates with other Federal agencies to provide seasonal employment for youth.

DATES: Comments must be received in writing on or before September 12, 2006 to be assured of consideration. Comments received after that date will be considered to the extent practicable.

ADDRESSES: Comments concerning this notice should be addressed to United States Department of Agriculture, Forest Service, Director, Youth Conservation Corps—Senior, Youth, and Volunteer Programs, P.O. Box 96090 (Mail Stop 1136), Washington DC 20090–6090.

Comments also may be submitted via facsimile to (703) 605–5115 or by e-mail to: *syvp/wo@fs.fed.us.*

The public may inspect comments received at the Office of the Director, Senior, Youth and Volunteer Programs, Forest Service, USDA, Room 1010, 1621 North Kent Street, Arlington, VA 22209, during normal business hours. Visitors are encouraged to call ahead to (703) 605–4854 to facilitate entry to the building.

FOR FURTHER INFORMATION CONTACT: Ransom Hughes, Youth Conservation Corps, Senior, Youth and Volunteer Program at (703) 605–4854. Individuals who use TDD may call the Federal Relay Service (FRS) at 1–800–877–8339, 24 hours a day, every day of the year, including holidays.

SUPPLEMENTARY INFORMATION:

Title: Youth Conservation Corps (YCC) Application.

OMB Number: 0596–0084.

Expiration Date of Approval: December 31, 2006.

Type of Request: Extension of a currently approved collection.

Abstract: Under the Youth Conservation Corps Act of August 13, 1970, as amended (U.S. 18701–1706), the Forest Service, U. S. Department of Agriculture and the Fish and Wildlife Service, National Park Service and Bureau of Land Management, U.S. Department of the Interior cooperate to provide seasonal employment for eligible youth 15 to 18 years old.

These youth, who seek training and employment with the Forest Service through the Youth Conservation Corps, must complete the following forms: FS 1800–18, Youth Conservation Corps Application, and FS–1800–3, Youth Conservation Corps Medical History. The applicant's parents or guardian must sign both forms.

Employees of the Forest Service (U.S. Department of Agriculture) and the Fish and Wildlife Service, National Park Service, and Bureau of Land Management (U.S. Department of the Interior) will evaluate the data and determine the eligibility of each youth for employment with the Youth Conservation Corps. Data gathered in this information collection are not available from other sources.

The Youth Conservation Corps stresses three important objectives:

- Accomplish needed conservation work on public lands;
- Provide gainful employment for 15 to 18 year old male and females from all social, economic, ethnic, and racial background; and
- Foster, on the part of the 15 to 18 year old youth, an understanding and appreciation of the Nation's natural resources and heritage.

FS–1800–18, Youth Conservation Corps (YCC) Application: Applicants are asked to answer questions that include their name, social security number, date of birth, mailing address, and telephone number.

FS–1800–3, Youth Conservation Corps Medical History: Applicants are asked to answer questions regarding their personal health. The purpose of FS–1800–3 is to certify the youth's physical fitness to work in the seasonal employment program.

Estimate of Annual Burden: 6 minutes (FS–1800–18); 14 minutes (FS–1800–3).

Type of Respondents: Youth between the ages of 15 and 18 years old seeking seasonal employment with the Forest Service through the YCC program.

Estimated Annual Number of Respondents: 18,000.

Estimated Annual Number of Responses Per Respondent: 2.

Estimated Total Annual Burden on Respondents: 6,000.

Comment is invited on: (1) Whether this collection of information is necessary for the stated purposes and the proper performance of the functions of the agency, including whether the information will have practical or scientific utility; (2) the accuracy of the agency's estimate of the burden of the collection of information, including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including the use of automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

All comments received in response to this notice, including names and addresses when provided, will be a matter of public record. Comments will be summarized and included in the request for Office of Management and Budget approval.

Dated: July 6, 2006.

Hand Kashdan,

Deputy Chief, OPS.

[FR Doc. E6–11103 Filed 7–13–06; 8:45 am]
BILLING CODE 3410–11–P

DEPARTMENT OF AGRICULTURE

Forest Service

Notice of Tri-County Advisory Committee Meeting

AGENCY: Forest Service, USDA.
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 Beaverhead-Deerlodge National Forest's Tri-County Resource Advisory Committee will meet on Thursday, August 3, 2006, from 4 p.m. to 8 p.m., in Helmville, Montana, for a business meeting and field trip. The meeting is open to the public.

DATES: Thursday, August 3, 2006.

ADDRESSES: The meeting will be held at the Community Hall on Highway 271, Helmville, Montana.

FOR FURTHER INFORMATION CONTACT: Bruce Ramsey, Designated Forest Official (DFO), Forest Supervisor, Beaverhead-Deerlodge National Forest, at (406) 683–3973.

SUPPLEMENTARY INFORMATION: Agenda topics for this meeting include a review of projects proposed for funding as authorized under Title II of Pub. L. 106–393, and public comment. If the meeting location is changed, notice will be posted in local newspapers, including The Montana Standard.

Dated: July 10, 2006.

Bruce Ramsey,

Forest Supervisor.

[FR Doc. 06–6222 Filed 7–13–06; 8:45 am]

BILLING CODE 3410–11–M

DEPARTMENT OF AGRICULTURE

Forest Service

Notice of Madison-Beaverhead Advisory Committee Meeting

AGENCY: Forest Service, USDA.

ACTION: Notice of meeting.

SUMMARY: Pursuant to the authorities in the Federal Advisory Committee Act (Pub. L. 92–463) and the Secure Rural Schools and Community Self-Determination Act of 2000 (Pub. L. 106–393), the Beaverhead-Deerlodge National Forest's Madison-Beaverhead Resource Advisory Committee will meet on Tuesday, August 8, 2006, from 10 a.m. until 5 p.m. in Ennis, Montana, for a business meeting and a field trip. The meeting is open to the public.

DATES: Tuesday, August 8, 2006.

ADDRESSES: The meeting will be held at the Forest Service office at #5 Forest Service Road in Ennis, Montana.

FOR FURTHER INFORMATION CONTACT: Bruce Ramsey, Designated Forest Official (DFO), Forest Supervisor, Beaverhead-Deerlodge National Forest, at (406) 683–3973.

SUPPLEMENTARY INFORMATION: Agenda topics for this meeting include making decisions on projects to fund under Title II of Pub. L. 106–393, hearing public comments, and a field trip to see projects already funded. If the meeting location changes, notice will be posted in local newspapers, including the Dillon Tribune and The Montana Standard.

Dated: July 10, 2006.

Bruce Ramsey,

Designated Federal Official.

[FR Doc. 06–6223 Filed 7–13–06; 8:45 am]

BILLING CODE 3410–11–M

DEPARTMENT OF AGRICULTURE

Rural Utilities Service

Information Collection Activity; Comment Request

AGENCY: Rural Utilities Service, USDA.

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35, as amended), the Rural Utilities Service (RUS) invites comments on this information collection for which RUS intends to request approval from the Office of Management and Budget (OMB).

DATES: Comments on this notice must be received by September 12, 2006.

FOR FURTHER INFORMATION CONTACT: Richard C. Annan, Director, Program Development and Regulatory Analysis, Rural Utilities Service, 1400 Independence Ave., SW., STOP 1522, Room 5818 South Building, Washington, DC 20250–1522. Telephone: (202) 720–0784. Fax: (202) 720–8435.

SUPPLEMENTARY INFORMATION: The Office of Management and Budget's (OMB) regulation (5 CFR part 130) implementing provisions of the Paperwork Reduction Act of 1995 (Pub. L. 104–13) requires that interested members of the public and affected agencies have an opportunity to comment on information collection and recordkeeping activities (see 5 CFR 1320.8(d)). this notice identifies an information collection that RUS is submitting to OMB for approval. Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other techmological collection techniques or other forms of information technology. Comments may be sent to: Richard C. Annan, Director, Program Development and Regulatory Analysis, Rural Utilities Service, U.S. Department of Agriculture, STOP 1522, 1400 Indepencence Ave., SW., Washington, DC 20250–1522. Fax: (202) 702–0784.

Title: Technical Assistance Programs. OMB Control Number: 0572–0112.

Type of Request: Extension of a currently approved collection.

Abstract: The Rural Utilities Service is authorized by section 306 of the Consolidated Farm and Rural Development Act (7 U.S.C. 1926) to make loans to public agencies, American Indian tribes, and nonprofit corporations to fund the development of drinking water, wastewater, and solid waste disposal facilities in rural areas with populations of up to 10,000 residents. Under the CONACT, 7 U.S.C. 1925(a), as amended, section 306(a)(14)(A) authorizes Technical Assistance and Training grants, and 7 U.S.C. 1932(b), section 310B authorizes Solid Waste Management grants. Grants are made for 100 percent of the cost of assistance. The Technical Assistance and Training Grants and Solid Waste Management Grants programs are administered through 7 CFR part 1775.

Estimate of Burden: Public reporting for this collection of information is estimated to average 3 hours per response.

Respondents: Not-for-profit institutions.

Estimated Number of Respondents: 80.

Estimated Number of Responses per Respondent: 17.

Estimated Total Annual Burden on Respondents: 4,168.

Copies of this information collection can be obtained from Michele Brooks, Program Development and Regulatory Analysis, at (202) 690–1078. Fax: (202) 720–4120. All responses to this notice will be summarized and included in the request for OMB approval. All comments will also become a matter of public record.

Dated: June 28, 2006.

James M. Andrew,

Administrator, Rural Utilities Service.

[FR Doc. 06–6216 Filed 7–13–06; 8:45 am]

BILLING CODE 3410–15–M

DEPARTMENT OF AGRICULTURE

Rural Utilities Service

Information Collection Activity; Comment Request

AGENCY: Rural Utilities Service, USDA.

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35, as amended), the Rural Utilities Service (RUS) invites comments on this information collection for which RUS intends to request approval from the Office of Management and Budget (OMB).

DATES: Comments on this notice must be received by September 12, 2006.

FOR FURTHER INFORMATION CONTACT: Richard C. Annan, Acting Director, Program Development and Regulatory Analysis, Rural Utilities Service, 1400 Independence Ave., SW., STOP 1522, Room 5170 South Building, Washington, DC 20250–1522. Telephone: (202) 720–0737. Fax: (202) 720–4120.

SUPPLEMENTARY INFORMATION: The Office of Management and Budget's (OMB) regulation (5 CFR 1320) implementing provisions of the Paperwork Reduction Act of 1995 (Pub. L. 104–13) requires that interested members of the public and affected agencies have an opportunity to comment on information collection and recordkeeping activities (see 5 CFR 1320.8(d)). This notice identifies an information collection that RUS is submitting to OMB for extension.

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the Agency, including whether the information will have practical utility; (b) the accuracy of the Agency's estimate of the burden of the proposed collection of information including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology. Comments may be sent to: Richard C. Annan, Acting Director, Program Development and Regulatory Analysis, Rural Utilities Service, U.S. Department of Agriculture, Room 5170, STOP 1522, 1400 Independence Ave., SW., Washington, DC 20250–1522. Fax: (202) 720–4120.

Title: Wholesale Contracts for the Purchase and Sale of Electric Power.

OMB Control Number: 0572–0089.

Type of Request: Extension of a currently approved information collection.

Abstract: Most RUS financed electric systems are cooperatives and are organized in a two-tiered structure. Retail customers are members of the distribution system that brings electricity to their homes and business. Distribution cooperatives, in turn, are members of power supply cooperatives, also known as generation and transmission cooperatives (G&T's) that generate or purchase power and transmit the power to the distribution systems.

For a distribution system a lien on the borrower's assets generally represents adequate security. However, since most G&T revenues flow from its distribution members, RUS requires, as a condition of a loan or loan guarantee to a G&T that long-term requirements wholesale power contract to purchase their power from the G&T at rates that cover all the G&T expenses, including debt service and margins. RUS from 444 is the standard form of the wholesale power contract. Most borrowers adapt this form to meet their specific needs. The contract is prepared and executed by the G&T and each member and by RUS.

Estimate of Burden: Public reporting burden for this collection of information is estimated to average 6 hours per response.

Respondents: Small business or other for-profit, not-for-profit organizations.

Estimated Number of Respondents: 110.

Estimated Number of Responses per Respondent: 1.

Estimated Total Annual Burden on Respondents: 660 hours.

Copies of this information collection can be obtained from MaryPat Daskal, Program Development and Regulatory Analysis, at (202) 720–7853; Fax: (202) 720–8435.

All responses to this notice will be summarized and included in the request for OMB approval. All comments will also become a matter of public record.

Dated: June 28, 2006.

James M. Andrew,

Administrator, Rural Utilities Service.

[FR Doc. 06–6217 Filed 7–13–06; 8:45 am]

BILLING CODE 3410–15–M

COMMITTEE FOR PURCHASE FROM PEOPLE WHO ARE BLIND OR SEVERELY DISABLED

Procurement List Additions

AGENCY: Committee for Purchase From People Who Are Blind or Severely Disabled.

ACTION: Additions to Procurement List.

SUMMARY: This action adds to the Procurement List products and services to be furnished by nonprofit agencies employing persons who are blind or have other severe disabilities.

DATES: *Effective Date:* August 18, 2006.

ADDRESSES: Committee for Purchase From People Who Are Blind or Severely Disabled, Jefferson Plaza 2, Suite 10800, 1421 Jefferson Davis Highway, Arlington, Virginia, 22202–3259.

FOR FURTHER INFORMATION CONTACT: Sheryl D. Kennerly, Telephone: (703) 603–7740, Fax: (703) 603–0655, or e-mail *SKennerly@jwod.gov.*

SUPPLEMENTARY INFORMATION: On May 12, 2006 and May 19, 2006, the Committee for Purchase From People Who Are Blind or Severely Disabled published notice (71 FR 27676 and 29121) of proposed additions to the Procurement List.

After consideration of the material presented to it concerning capability of qualified nonprofit agencies to provide the products and services and impact of the additions on the current or most recent contractors, the Committee has determined that the products and services listed below are suitable for procurement by the Federal Government under 41 U.S.C. 46–48c and 41 CFR 51–2.4.

Regulatory Flexibility Act Certification

I certify that the following action will not have a significant impact on a substantial number of small entities. The major factors considered for this certification were:

1. The action will not result in any additional reporting, recordkeeping or other compliance requirements for small entities other than the small organizations that will furnish the products and services to the Government.

2. The action will result in authorizing small entities to furnish the products and services to the Government.

3. There are no known regulatory alternatives which would accomplish the objectives of the Javits-Wagner-O'Day Act (41 U.S.C. 46–48c) in connection with the products and services proposed for addition to the Procurement List.

End of Certification

Accordingly, the following products and services are added to the Procurement List:

Products

Product/NSN: Hydration System Carrier Assembly (MOLLE Components) (NTE 40,000 Units).
8465–01–524–8362—Universal Camouflage.
8465–01–519–2306—Woodland Camouflage.
8465–01–519–2353—Desert Camouflage.
NPA: Lions Services, Inc., Charlotte, North Carolina.
Contracting Activity: Defense Supply Center Philadelphia, Philadelphia, Pennsylvania.

Product/NSN: Keeper w/Slide Adaptor Assembly (MOLLE Components).
8465–01–524–7253—Universal Camouflage.
8465–01–491–7443—Desert Camouflage.
8465–01–465–2062—Woodland Camouflage.
NPA: Lions Services, Inc., Charlotte, North Carolina.
Contracting Activity: Defense Supply Center Philadelphia, Philadelphia, Pennsylvania.

Services

Service Type/Location: Custodial Services, 15th MDG Facilities, Life Skills, Bldg 554, Hickam AFB, Hawaii.
NPA: Network Enterprises, Inc., Honolulu, Hawaii.
Contracting Activity: 15th Contracting Squadron, Hickam Air Force Base, Hawaii.

Service Type/Location: Grounds Maintenance, Fort Douglas, Salt Lake City, Utah.
NPA: Community Foundation for the Disabled, Inc., Salt Lake City, Utah.
Contracting Activity: U.S. Army, 96th Regional Support Command, Salt Lake City, Utah.

Service Type/Location: Vehicle Maintenance Services, Building 386 Dickman Avenue, Fort Riley, Kansas.
NPA: Skookum Educational Programs, Port Townsend, Washington.
Contracting Activity: GSA, Fleet Management Division, Kansas City, Missouri.

This action does not affect current contracts awarded prior to the effective date of this addition or options that may be exercised under those contracts.

Sheryl D. Kennerly,

Director, Information Management.

[FR Doc. E6–11164 Filed 7–13–06; 8:45 am]

BILLING CODE 6353–01–P

DEPARTMENT OF COMMERCE

Census Bureau

Submission for OMB Review; Comment Request

DOC has submitted to the Office of Management and Budget (OMB) for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35).

Agency: U.S. Census Bureau, Commerce.

Title: The October School Enrollment Supplement to the Current Population Survey.

Form Number(s): None.

Agency Approval Number: 0607–0464.

Type of Request: Extension of a currently approved collection.

Burden: 2,750 hours.

Number of Respondents: 55,000.

Avg Hours per Response: 3 minutes.

Needs and Uses: The Census Bureau requests continued clearance for the supplemental inquiry concerning school enrollment to be conducted in conjunction with the Current Population Survey (CPS) October Supplement. The School Enrollment Supplement is jointly sponsored by the U.S. Census Bureau, the Bureau of Labor Statistics (BLS), and the National Center for Education Statistics (NCES). This data series provides basic information on enrollment status of various segments of the population necessary as background for policy formation and implementation.

The CPS October supplement is the only annual source of data on public/private elementary and secondary school enrollment and characteristics of private school students and their families, which are used for tracking historical trends and for policy planning and support. The basic school enrollment questions have been collected annually in the CPS for 40 years. Consequently, this supplement is the only source of historical data at the national level on the age distribution and family characteristics of college students, and on the demographic characteristics of preprimary school enrollment. As part of the Federal government's efforts to collect data and provide timely information to local governments for policymaking decisions, this supplement provides national trends in enrollment and progress in school. Discontinuance of these data would mean not complying with the Federal government's obligation to provide data to decision makers on current educational issues and would disrupt a data series that has been in existence for 40 years.

Affected Public: Individuals or households.

Frequency: Annually.

Respondent's Obligation: Voluntary.

Legal Authority: Title 13, United States Code, Section 182 and Title 29, United States Code, Sections 1–9.

OMB Desk Officer: Susan Schechter, (202) 395–5103.

Copies of the above information collection proposal can be obtained by calling or writing Diana Hynek, Departmental Paperwork Clearance Officer, (202) 482–0266, Department of Commerce, room 6625, 14th and Constitution Avenue, NW, Washington, DC 20230 (or via the Internet at *dhynek@doc.gov*).

Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to Susan Schechter, OMB Desk Officer either by fax (202–395–7245) or e-mail (*susan_schechter@omb.eop.gov*).

Dated: July 10, 2006.

Madeleine Clayton,

Management Analyst, Office of the Chief Information Officer.

[FR Doc. E6–11075 Filed 7–13–06; 8:45 am]

BILLING CODE 3510–07–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–427–801, A–428–801, A–475–801, A–588–804, A 412–801]

Ball Bearings and Parts Thereof from France, Germany, Italy, Japan, and the United Kingdom: Final Results of Antidumping Duty Administrative Reviews

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

SUMMARY: On March 9, 2006, the Department of Commerce published the preliminary results of the administrative reviews of the antidumping duty orders on ball bearings and parts thereof from France, Germany, Italy, Japan, and the United Kingdom. The reviews cover 14 manufacturers/exporters. The period of review is May 1, 2004, through April 30, 2005.

Based on our analysis of the comments received, we have made changes, including corrections of certain programming and other ministerial errors, in the margin calculations. Therefore, the final results differ from the preliminary results. The final weighted–average dumping margins for the reviewed firms are listed below in

the section entitled "Final Results of the Reviews."

EFFECTIVE DATE: July 14, 2006.

FOR FURTHER INFORMATION CONTACT: Lyn Johnson or Richard Rimlinger, AD/CVD Operations, Office 5, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone: (202) 482–5287 or (202) 482–4477.

SUPPLEMENTARY INFORMATION:

Background

On March 9, 2006, the Department of Commerce (the Department) published the preliminary results of the administrative reviews of the antidumping duty orders on ball bearings and parts thereof from France, Germany, Italy, Japan, and the United Kingdom. See *Ball Bearings and Parts Thereof from France, Germany, Italy, Japan, and the United Kingdom: Preliminary Results of Antidumping Duty Administrative Reviews*, 71 FR 12170 (March 9, 2006). The period of review is May 1, 2004, through April 30, 2005. The companies for which we are conducting administrative reviews are as follows:

France:

* SKF France S.A. or SKF Aerospace France (formally Sarma) (collectively, SKF France)
* SNR Roulements or SNR Europe (SNR)

Germany:

* Gebrüder Reinfurt GmbH & Co., KG, Wurzberg, Germany (collectively, GRW)
* INA–Schaeffler KG; INA Vermogensverwaltungsgesellschaft GmbH; INA Holding Schaeffler KG; FAG Kugelfischer Georg–Schaefer AG; FAG Automobiltechnik AG; FAG OEM und Handel AG; FAG Komponenten AG; FAG Aircraft/ Super Precision Bearings GmbH; FAG Industrial Bearings AG; FAG Sales Europe GmbH; FAG International Sales and Service GmbH (collectively, INA/FAG)
* SKF GmbH (SKF Germany)

Italy:

* FAG Italia S.p.A.; FAG Automobiltechnik AG; FAG OEM und Handel AG (collectively FAG Italy)
* SKF Industrie S.p.A.; SKF RIV–SKF Officine di Villas Perosa S.p.A.; RFT S.p.A.; OMVP S.p.A. (collectively SKF Italy)

Japan:

* JTEKT Corporation (JTEKT–formerly known as Koyo Seiko Co., Ltd.)
* NSK Ltd. (NSK)
* NTN Corporation (NTN)
* Nachi–Fujikoshi Corporation (Nachi)
* Nippon Pillow Block Company, Ltd. (NPB)
* Sapporo Precision Inc. (Sapporo)
* The Barden Corporation (UK) Limited; FAG (U.K.) Limited (collectively Barden/FAG)

United Kingdom:

* The Barden Corporation (UK) Limited; FAG (U.K.) Limited (collectively Barden/FAG)

We invited interested parties to comment on the preliminary results. At the request of certain parties, we held a hearing for Japan–specific issues on May 11, 2006. The Department has conducted these administrative reviews in accordance with section 751 of the Tariff Act of 1930, as amended (the Act).

Scope of Orders

The products covered by these orders are ball bearings (other than tapered roller bearings) and parts thereof. These products include all bearings that employ balls as the rolling element. Imports of these products are classified under the following categories: antifriction balls, ball bearings with integral shafts, ball bearings (including radial ball bearings) and parts thereof, and housed or mounted ball bearing units and parts thereof.

Imports of these products are classified under the following Harmonized Tariff Schedules of the United States (HTSUS) subheadings: 3926.90.45, 4016.93.00, 4016.93.10, 4016.93.50, 6909.19.5010, 8431.20.00, 8431.39.0010, 8482.10.10, 8482.10.50, 8482.80.00, 8482.91.00, 8482.99.05, 8482.99.2580, 8482.99.35, 8482.99.6595, 8483.20.40, 8483.20.80, 8483.50.8040, 8483.50.90, 8483.90.20, 8483.90.30, 8483.90.70, 8708.50.50, 8708.60.50, 8708.60.80, 8708.70.6060, 8708.70.8050, 8708.93.30, 8708.93.5000, 8708.93.6000, 8708.93.75, 8708.99.06, 8708.99.31, 8708.99.4960, 8708.99.50, 8708.99.5800, 8708.99.8080, 8803.10.00, 8803.20.00, 8803.30.00, 8803.90.30, and 8803.90.90.

Although the HTSUS item numbers above are provided for convenience and customs purposes, written descriptions of the scope of these orders remain dispositive.

The size or precision grade of a bearing does not influence whether the bearing is covered by one of the orders. These orders cover all the subject bearings and parts thereof (inner race, outer race, cage, rollers, balls, seals, shields, etc.) outlined above with certain limitations. With regard to finished parts, all such parts are included in the scope of the these orders. For unfinished parts, such parts are included if (1) they have been heat–treated, or (2) heat treatment is not required to be performed on the part. Thus, the only unfinished parts that are not covered by these orders are those that will be subject to heat treatment after importation. The ultimate application of a bearing also does not influence whether the bearing is covered by the orders. Any of the subject bearings, regardless of whether they may ultimately be utilized in aircraft, automobiles, or other equipment, are within the scope of these orders.

For a listing of scope determinations which pertain to the orders, see the Scope Determination Memorandum (Scope Memorandum) from the Antifriction Bearings Team to Laurie Parkhill, dated March 2, 2006. The Scope Memorandum is on file in the Central Records Unit (CRU), main Commerce building, Room B–099, in the General Issues record (A–100–001) for the 04/05 reviews.

Analysis of the Comments Received

All issues raised in the case and rebuttal briefs by parties to the concurrent administrative reviews of the orders on ball bearings and parts thereof are addressed in the "Issues and Decision Memorandum" (Decision Memo) from Stephen J. Claeys, Deputy Assistant Secretary, to David M. Spooner, Assistant Secretary, dated July 7, 2006, which is hereby adopted by this notice. A list of the issues which parties have raised and to which we have responded is in the Decision Memo and attached to this notice as an Appendix. The Decision Memo, which is a public document, is on file in the CRU, main Commerce building, Room B–099, and is accessible on the Web at *http://ia.ita.doc.gov/frn/index.html*. The paper copy and electronic version of the Decision Memo are identical in content.

Sales Below Cost in the Home Market

The Department disregarded home–market sales that failed the cost–of–production test for the following firms for these final results of reviews:

Country	Company
France	SKF, SNR
Germany	GRW, INA/FAG, SKF Germany
Italy	FAG Italy, SKF Italy
Japan	JTEKT, NPB, NSK, NTN, Nachi
United Kingdom	Barden/FAG

Use of Adverse Facts Available

In accordance with section 776(a) of the Act, we determine that the use of partial facts available as the basis for the weighted–average dumping margin is appropriate for Nachi. As explained in our report of the verification of Nachi dated February 9, 2006, we found that Nachi reported incorrect physical characteristics for 16 of the 40 models we examined at verification. Consequently, we find that for Nachi's U.S. sales with nonidentical matches, it is impossible for us to ascertain whether the match we might select using Nachi's reported characteristics is, in fact, the appropriate match. Therefore, we find that, for such U.S. sales, we have to rely on the facts available to calculate the margins for these sales.

In addition, we find that Nachi did not act to the best of its ability in reporting its physical characteristics because Nachi had the correct data available to it. Accordingly, it is appropriate to use adverse inferences in addressing the errors in the characteristics Nachi reported in accordance with section 776(b) of the Act. See Comment 4 of the Decision Memo for a complete discussion of this issue.

As adverse facts available, we have selected the highest margin we have determined for Nachi in any previous segment of this proceeding and applied this rate to all U.S. sales for which we found no identical match. This rate is 48.69 percent which we established for Nachi in *Final Determinations of Sales at Less Than Fair Value; Antifriction Bearings (Other Than Tapered Roller Bearings) and Parts Thereof from Japan*, 54 FR 19101 (May 3, 1989). Furthermore, as required by section 776(c) of the Act, we were able to corroborate this margin with respect to Nachi. For a detailed explanation of how we corroborated this margin, see our preliminary analysis memorandum for Nachi dated March 2, 2006.

Other Changes Since the Preliminary Results

Based on our analysis of comments received, we have made revisions that have changed the results for certain firms. We have corrected programming and ministerial errors in the preliminary results, where applicable. Any alleged programming or ministerial errors about which we or the parties do not agree are discussed in Section 9 of the Decision Memo.

Final Results of the Reviews

We determine that the following percentage weighted–average margins on ball bearings and parts thereof exist for the period May 1, 2004, through April 30, 2005:

Country	Company	Margin
France	SKF France	12.57
	SNR	11.75
Germany	FAG/INA	4.04
	GRW	1.14
	SKF Germany	7.35
Italy	FAG Italy	2.52
	SKF Italy	7.65
Japan	JTEKT	19.76
	Nachi	16.02
	NSK	6.93
	NTN	9.32
	NPB	25.91
	Sapporo	9.00
United Kingdom	Barden/FAG	0.23

Assessment Rates

The Department will determine and U.S. Customs and Boarder Protection (CBP) shall assess antidumping duties on all appropriate entries. We intend to issue appropriate assessment instructions directly to CBP within 15 days of publication of these final results of reviews. In accordance with 19 CFR 351.212(b)(1), we have calculated, whenever possible, an importer/customer–specific assessment rate or value for subject merchandise.

The Department clarified its "automatic assessment" regulation on May 6, 2003. See *Notice of Policy Concerning Assessment of Antidumping Duties*, 68 FR 23954 (May 6, 2003) (Assessment–Policy Notice). This clarification will apply to entries of subject merchandise during the period of review produced by companies included in these final results of reviews for which the reviewed companies did not know that the merchandise it sold to the intermediary (*e.g.*, a reseller, trading company, or exporter) was destined for the United States. In such instances, we will instruct CBP to liquidate unreviewed entries at the all–others rate if there is no rate for the intermediary involved in the transaction. See the Assessment–Policy Notice for a full discussion of this clarification.

a. Export Price

With respect to export–price (EP) sales, we divided the total dumping margins (calculated as the difference between normal value and the EP) for each exporter's importer or customer by the total number of units the exporter sold to that importer or customer. We will direct CBP to assess the resulting per–unit dollar amount against each unit of merchandise on each of that importer's or customer's entries under the relevant order during the review period.

b. Constructed Export Price

For constructed export–price (CEP) sales (sampled and non–sampled), we divided the total dumping margins for the reviewed sales by the total entered value of those reviewed sales for each importer. We will direct CBP to assess the resulting percentage margin against the entered customs values for the subject merchandise on each of that importer's entries under the relevant order during the review period. See 19 CFR 351.212(b)(1).

Cash–Deposit Requirements

To calculate the cash–deposit rate for each respondent (*i.e.*, each exporter and/or manufacturer included in these reviews), we divided the total dumping margins for each company by the total net value of that company's sales of merchandise during the review period subject to each order.

To derive a single deposit rate for each respondent, we weight–averaged the EP and CEP deposit rates (using the EP and CEP, respectively, as the weighting factors). To accomplish this when we sampled CEP sales, we first calculated the total dumping margins for all CEP sales during the review period by multiplying the sample CEP margins by the ratio of total days in the review period to days in the sample weeks. We then calculated a total net value for all CEP sales during the review period by multiplying the sample CEP total net value by the same ratio. Finally, we divided the combined total dumping margins for both EP and CEP sales by the combined total value for both EP and CEP sales to obtain the deposit rate.

We will direct CBP to collect the resulting percentage deposit rate against the entered customs value of each of the exporter's entries of subject merchandise entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice. Entries of parts incorporated into finished bearings before sales to an unaffiliated customer in the United States will receive the respondent's deposit rate applicable to the order.

Furthermore, the following deposit requirements will be effective upon publication of this notice of final results of administrative reviews for all shipments of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after the date of publication, consistent with section 751(a)(1) of the Act: (1) The cash–deposit rates for the reviewed companies will be the rates shown above; (2) for previously reviewed or investigated companies not listed above, the cash–deposit rate will continue to be the company–specific rate published for the most recent period; (3) if the exporter is not a firm covered in this review, a prior review, or the original less–than-fair–value (LTFV) investigation but the manufacturer is, the cash–deposit rate will be the rate established for the most recent period for the manufacturer of the merchandise; (4) the cash–deposit rate for all other manufacturers or exporters will continue to be the "All Others" rate for the relevant order made effective by the final results of review published on July 26, 1993. See *Antifriction Bearings (Other Than Tapered Roller Bearings) and Parts Thereof from France, et al: Final Results of Antidumping Duty Administrative Reviews and Revocation in Part of an Antidumping Duty Order*, 58 FR 39729 (July 26, 1993). For ball bearings from Italy, see *Antifriction Bearings (Other Than Tapered Roller Bearings) and Parts Thereof from France, et al; Final Results of Antidumping Duty Administrative Reviews and Partial Termination of Administrative Reviews*, 61 FR 66471, 66521 (December 17, 1996). These rates are the "All Others" rates from the relevant LTFV investigation.

These deposit requirements shall remain in effect until publication of the final results of the next administrative reviews.

This notice serves as a reminder to importers of their responsibility under 19 CFR 351.402(f) to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during these review periods. Failure to comply with this requirement could result in the Department's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of doubled antidumping duties.

This notice also serves as a reminder to parties subject to administrative protective order (APO) of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance with 19 CFR 351.305(a)(3). Timely notification of the return or destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and the terms of an APO is a sanctionable violation.

We are issuing and publishing these results in accordance with sections 751(a)(1) and 777(i) of the Act.

Dated: July 7, 2006.

Joseph A. Spetrini,

Acting Assistant Secretary for Import Administration.

Appendix

Comments and Responses

1. Offsetting of Negative Margins
2. Model–Match Methodology
3. Sample and Prototype Sales
4. Use of Adverse Facts Available
5. Inventory Carrying Costs
6. Freight Expenses
7. Affiliation
8. Billing and Other Post–Sale Price Adjustments
9. Ministerial Errors
10. Miscellaneous Issues
    - A. U.S. Indirect Selling Expenses
    - B. Bearing Design Types
    - C. Home–Market Packing
    - D. Warehousing Expenses
    - E. Expansion of Window Period

[FR Doc. E6–11123 Filed 7–13–06; 8:45 am]
BILLING CODE 3510–DS–S

DEPARTMENT OF COMMERCE

International Trade Administration

[A–549–812]

Extension of Time Limits for Preliminary Results and Final Results of the Full Sunset Review of the Antidumping Duty Order on Furfuryl Alcohol from Thailand

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

EFFECTIVE DATE: July 14, 2006.

FOR FURTHER INFORMATION CONTACT: Audrey R. Twyman, Damian Felton, or Brandon Farlander, AD/CVD Operations, Office 1, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street & Constitution Avenue, NW., Washington, DC, 20230; telephone: 202–482–3534, 202–482–0133, and 202–482–0182, respectively.

SUPPLEMENTARY INFORMATION:

Background

The Department of Commerce ("the Department") initiated this second sunset review of furfuryl alcohol from Thailand on April 3, 2006. *See Initiation of Five–year "Sunset" Reviews*, 71 FR 16551 (April 3, 2006). On April 7, 2006, we received notification of intent to participate from the domestic interested party, Penn Speciality Chemicals, Inc. We received substantive responses to the notice of initiation on May 2, 2006, from the domestic interested party, and

on May 3, 2006, from the respondent interested party, Indorama Chemicals (Thailand) Ltd. On May 8, 2006, we received rebuttal comments from the domestic interested party.

On May 23, 2006, the Department determined to conduct a full sunset review of the antidumping duty order on furfuryl alcohol from Thailand as provided at section 751(c)(5)(A) of the Tariff Act of 1930, as amended ("the Act") and at section 351.218 (e)(2)(i) of the Department's regulations because: (1) the domestic interested party's and respondent interested party's substantive responses met the requirements of section 351.218(d)(3) of the Department's regulations, and (2) both the information on the record and our review of the proprietary CBP data, indicated that the respondent interested party accounts for more than 50 percent of the exports to the United States, the level that the Department normally considers to be an adequate response to the notice of initiation by respondent interested parties under section 351.218 (e)(1)(ii)(A).

Extension of Time Limits

In accordance with section 751(c)(5)(B) of the Act, the Department may extend the period of time for making its determination by not more than 90 days, if it determines that the review is extraordinarily complicated. On May 2, May 3, and May 8, 2006, the parties filed comments raising various issues. Because some of these issues are complex, the Department has determined, pursuant to section 751(c)(5)(C)(ii) of the Act, that the sunset review is extraordinarily complicated and will require additional time for the Department to complete its analysis.

The Department's preliminary results of the full sunset review of the antidumping duty order on furfuryl alcohol from Thailand are scheduled for July 22, 2006, and the final results are scheduled for November 29, 2006. As a result of our decision to extend the deadlines, the Department intends to issue the preliminary results of the full sunset review of the antidumping duty order on furfuryl alcohol from Thailand no later than October 20, 2006, and the final results of the review no later than February 27, 2007. These dates are 90 days from the originally scheduled dates of the preliminary and final results of this sunset review.

This notice is issued in accordance with sections 751(c)(5)(B) and (C)(ii) of the Act.

Dated: July 10, 2006.

Stephen J. Claeys,

Deputy Assistant Secretaryfor Import Administration.

[FR Doc. E6–11126 Filed 7–13–06; 8:45 am]

BILLING CODE 3510–DS–S

DEPARTMENT OF COMMERCE

International Trade Administration

[A–533–820]

Certain Hot–Rolled Carbon Steel Flat Products From India: Notice of Intent to Rescind Administrative Review

AGENCY: Import Administration, International Trade Administration, Department ofCommerce.

SUMMARY: After initiating a review of the antidumping duty order on certain hot–rolled carbon steel flat products from India covering the period December 1, 2004, through November 30, 2005, the sole respondent, Essar Steel Ltd., claimed it did not ship subject merchandise to the United States during the period of review (POR). Based on record evidence consistent with this claim, the Department of Commerce intends to rescind the instant administrative review.

EFFECTIVE DATE: July 14, 2006.

FOR FURTHER INFORMATION CONTACT: Jeffrey Pedersen or Howard Smith, AD/CVD Operations, Office 4, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230, telephone: (202) 482–2769 or (202) 482–5193, respectively.

SUPPLEMENTARY INFORMATION:

Background

On December 1, 2005, the Department of Commerce (the Department) published, in the **Federal Register**, a notice of the opportunity to request an administrative review of the antidumping duty order on certain hot–rolled carbon steel flat products (HRS) from India, covering the period December 1, 2004, through November 30, 2005. *See Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation; Opportunity to Request Administrative Review*, 70 FR 72109 (December 1, 2005). On December 30, 2005 and January 3, 2006, Nucor Corporation and U.S. Steel Corporation (collectively, petitioners), respectively, requested an administrative review of the above–referenced antidumping order with respect to Essar Steel Ltd. (Essar). On February 1, 2006, the Department initiated the requested administrative review. *See Initiation of Antidumping and Countervailing Duty Administrative Reviews and Request for Revocation in Part*, 71 FR 5241 (February 1, 2006). On February 10, 2006, Essar submitted a letter to the Department in which it certified that it made no shipments of subject merchandise to the United States during the POR.

Scope of the Order

The products covered by the antidumping duty order are certain hot–rolled carbon steel flat products of a rectangular shape, of a width of 0.5 inch or greater, neither clad, plated, nor coated with metal and whether or not painted, varnished, or coated with plastics or other non–metallic substances, in coils (whether or not in successively superimposed layers), regardless of thickness, and in straight lengths, of a thickness of less than 4.75 mm and of a width measuring at least 10 times the thickness. Universal mill plate (*i.e.*, flat–rolled products rolled on four faces or in a closed box pass, of a width exceeding 150 mm, but not exceeding 1250 mm, and of a thickness of not less than 4.0 mm, not in coils and without patterns in relief) of a thickness not less than 4.0 mm is not included within the scope of the order.

Specifically included within the scope of the order are vacuum degassed, fully stabilized (commonly referred to as interstitial–free (IF)) steels, high strength low alloy (HSLA) steels, and the substrate for motor lamination steels. IF steels are recognized as low carbon steels with micro–alloying levels of elements such as titanium or niobium (also commonly referred to as columbium), or both, added to stabilize carbon and nitrogen elements. HSLA steels are recognized as steels with micro–alloying levels of elements such as chromium, copper, niobium, vanadium, and molybdenum. The substrate for motor lamination steels contains micro–alloying levels of elements such as silicon and aluminum.

Steel products to be included in the scope of the order, regardless of definitions in the Harmonized Tariff Schedule of the United States (HTSUS), are products in which: i) Iron predominates, by weight, over each of the other contained elements; ii) the carbon content is 2 percent or less, by weight; and iii) none of the elements listed below exceeds the quantity, by weight, respectively indicated:

1.80 percent of manganese, or
2.25 percent of silicon, or
1.00 percent of copper, or
0.50 percent of aluminum, or
1.25 percent of chromium, or

0.30 percent of cobalt, or
0.40 percent of lead, or
1.25 percent of nickel, or
0.30 percent of tungsten, or
0.10 percent of molybdenum, or
0.10 percent of niobium, or
0.15 percent of vanadium, or
0.15 percent of zirconium.

All products that meet the physical and chemical description provided above are within the scope of the order unless otherwise excluded. The following products, by way of example, are outside or specifically excluded from the scope of the order:

- Alloy HRS products in which at least one of the chemical elements exceeds those listed above (including, *e.g.*, American Society for Testing and Materials (ASTM) specifications A543, A387, A514, A517, A506).
- Society of Automotive Engineers (SAE)/American Iron & Steel Institute (AISI) grades of series 2300 and higher.
- Ball bearing steels, as defined in the HTSUS.
- Tool steels, as defined in the HTSUS.
- Silico–manganese (as defined in the HTSUS) or silicon electrical steel with a silicon level exceeding 2.25 percent.
- ASTM specifications A710 and A736.
- USS abrasion–resistant steels (USS AR 400, USS AR 500).
- All products (proprietary or otherwise) based on an alloy ASTM specification (sample specifications: ASTM A506, A507).
- Non–rectangular shapes, not in coils, which are the result of having been processed by cutting or stamping and which have assumed the character of articles or products classified outside chapter 72 of the HTSUS.

The merchandise subject to the order is classified in the HTSUS at subheadings: 7208.10.15.00, 7208.10.30.00, 7208.10.60.00, 7208.25.30.00, 7208.25.60.00, 7208.26.00.30, 7208.26.00.60, 7208.27.00.30, 7208.27.00.60, 7208.36.00.30, 7208.36.00.60, 7208.37.00.30, 7208.37.00.60, 7208.38.00.15, 7208.38.00.30, 7208.38.00.90, 7208.39.00.15, 7208.39.00.30, 7208.39.00.90, 7208.40.60.30, 7208.40.60.60, 7208.53.00.00, 7208.54.00.00, 7208.90.00.00, 7211.14.00.90, 7211.19.15.00, 7211.19.20.00, 7211.19.30.00, 7211.19.45.00, 7211.19.60.00, 7211.19.75.30, 7211.19.75.60, and 7211.19.75.90. Certain hot–rolled carbon steel flat products covered by the order, including: vacuum degassed fully stabilized; high strength low alloy; and the substrate for motor lamination steel may also enter under the following tariff numbers: 7225.11.00.00, 7225.19.00.00, 7225.30.30.50, 7225.30.70.00, 7225.40.70.00, 7225.99.00.90, 7226.11.10.00, 7226.11.90.30, 7226.11.90.60, 7226.19.10.00, 7226.19.90.00, 7226.91.50.00, 7226.91.70.00, 7226.91.80.00, and 7226.99.00.00. Subject merchandise may also enter under 7210.70.30.00, 7210.90.90.00, 7211.14.00.30, 7212.40.10.00, 7212.40.50.00, and 7212.50.00.00. Although the HTSUS subheadings are provided for convenience and customs purposes, the written description of the merchandise under review is dispositive.

Intent to Rescind the Administrative Review

Pursuant to 19 CFR § 351.213(d)(3), the Department may rescind an administrative review of a particular exporter or producer if it concludes, with respect to that exporter or producer, that there were no entries, exports, or sales of the subject merchandise, as the case may be, during the POR. After receiving Essar's "no shipments" claim, the Department examined Customs and Border Protection (CBP) entry data for the POR. These data support the conclusion that there were no entries, exports, or sales of subject merchandise from Essar during the POR. *See* memorandum to the file from Kavita Mohan dated July 7, 2006. Further, on March 23, 2006, the Department requested that CBP notify it within 10 days if CBP had evidence of exports of subject merchandise from Essar during the POR. CBP has not notified the Department of such exports. *See* the memorandum to the file from Jeff Pedersen dated March 29, 2006. Therefore, in accordance with 19 CFR § 351.213(d)(3), and consistent with our practice, we have preliminarily determined to rescind this review. *See, e.g., Certain Steel Concrete Reinforcing Bars From Turkey; Final Results, Rescission of Antidumping Duty Administrative Review in Part*, and Determination not to Revoke in Part, 68 FR 53127 (September 9, 2003) (after finding no evidence of entries of subject merchandise from two companies that made "no shipments" claims, the Department stated that "consistent with our practice, we are rescinding our review for Diler and Ekinciler"). If, however, Essar's subject merchandise did enter the United States during the POR by way of intermediaries, and this merchandise entered under CBP's antidumping case number for Essar, the Department will instruct CBP to liquidate such entries at the "all–others" rate in effect on the date of the entry. *See Antidumping and Countervailing Duty Proceedings: Assessment of Antidumping Duties*, 68 FR 23954 (May 6, 2003).

Public Comment

Interested parties may submit case briefs and request a hearing within 30 days after the date of publication of this preliminary notice. *See* 19 CFR § 351.309(c)(ii) and 19 CFR § 351.310(c). Rebuttal briefs, limited to issues raised in case briefs, may be filed no later than five days after the time limit for filing the case brief. *See* 19 CFR § 351.309(d). Any hearing requested will be held 44 days after the date of publication of this notice, or the first working day thereafter. Parties who submit arguments are requested to submit with the argument: (1) A statement of the issue, (2) a brief summary of the argument, and (3) a table of authorities. Further, parties submitting written comments should provide the Department with an additional copy of the public version of any such comments on diskette. Unless the deadline for issuing the final results of review is extended, the Department will issue the final results of review, which will include the results of its analysis of issues raised in written comments, or at a hearing, within 120 days of publication of this preliminary notice.

This notice is issued and published in accordance with sections 751(a)(1) and 777(i)(1) of the Tariff Act of 1930, as amended, and 19 CFR § 351.213(d).

Dated: July 7, 2006.

Stephen J. Claeys,

Deputy Assistant Secretary for Import Administration.

[FR Doc. E6–11122 Filed 7–13–06; 8:45 am]
BILLING CODE 3510–DS–S

DEPARTMENT OF COMMERCE

International Trade Administration

[A–570–601]

Tapered Roller Bearings and Parts Thereof, Finished or Unfinished, From the People's Republic of China: Preliminary Results of Antidumping Duty Administrative Review and Notice of Intent To Rescind In Part

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

SUMMARY: The Department of Commerce ("the Department") is conducting the eighteenth administrative review of the

antidumping duty order on tapered roller bearings and parts thereof, finished or unfinished, ("TRBs") from the People's Republic of China ("PRC"), covering the period June 1, 2004, through May 31, 2005. We have preliminary determined that sales have not been made below normal value by China National Machinery Import & Export Corporation ("CMC"). If these preliminary results are adopted in our final results of this review, we will instruct U.S. Customs and Border Protection ("CBP") to assess to antidumping duties on entries of subject merchandise exported by CMC during the period of review ("POR"). We are also preliminary rescinding the review with respect to four exporters because none of these respondents made shipments of subject merchandise during the POR.

Interested parties are invited to comment on these preliminary results. We intend to issue the final results no later than 120 days from the date of publication of this notice.

DATES: *Effective Date:* July 14, 2006.

FOR FURTHER INFORMATION CONTACT: Ryan Radford or Eugene Degnan, AD/CVD Operations, Office 8, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone: (202) 482–4037 and (202) 482–0414, respectively.

Background

On June 1, 2005, the Department published a notice of opportunity to request an administrative review of the antidumping duty order on TRBs from the PRC for the period June 1, 2004, through May 31, 2005. *See Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation: Opportunity to Request Administrative Review*, 70 FR 31422 (June 1, 2005). On June 30, 2005, The Yantai Timken Company ("Yantai Timken" or "Petitioner") requested that the Department conduct an administrative review of the antidumping duty order covering TRBs from the PRC for entries of subject merchandise produced and/or exported by CMC, Chin Jun Industrial Ltd. ("Chin Jun"), Peer Bearing Company—Changshan ("CPZ"), Weihai Machinery Holding (Group) Company, Ltd. ("Weihai Machinery"), and Zhejiang Machinery Import & Export Corp ("ZMC"). Additionally, on June 30, 2005, Wanxiang Group Company ("Wanxiang") requested the Department conduct an administrative review of its sales. On July 21, 2005, the Department published in the **Federal Register** a notice of the initiation of the antidumping duty administrative review of TRBs from the PRc for the period June 1, 2004, through May 31, 2005, for CMC, Chin Jun, CPZ, Weihai Machinery, Yantai Timken, and ZMC. *See Initiation of Antidumping and Countervailing Duty Administrative Reviews and Requests for Revocation in Part*, 70 FR 42028 (July 21, 2005) ("*Initiation Notice*"). On August 29, 2005, the Department published in the **Federal Register** a notice of the initiation of the antidumping duty administrative review of TRBs from the PRC from Wanxiang for the period June 1, 2004, through May 31, 2005. *See Initiation of Antidumping and Countervailing Duty Administrative Reviews and Requests for Revocation in Part*, 70 FR 51009 (August 29, 2005).

On August 15, 2005, the Department issued its antidumping duty questionnaire to all of the above respondents.

On July 1, 2005, Wanxiang withdrew its request for an administrative review. On September 6, 2005, CPZ reported to the Department that it had no exports of subject merchandise during the POR and asked the Department to rescind the antidumping duty administrative review for CPZ. Also, on September 6, 2005, Chin Jun reported to the Department that it is a dormant company, has not been in business for years, and had no sales of subject merchandise during the POR. On September 12, 2005 the Petitioner withdrew its request for a review of Yantai Timken's 2004–2005 exports of subject merchandise. On October 7, the Department sent e-mail correspondence to the U.S. embassy in Beijing asking for help in locating Weihai Machinery and ZMC. *See* Memorandum to the File from Laurel LaCivita dated October 7, 2005. On October 18, 2005, the Department sent a letter to Mr. Liu Danyang, Division Chief of the People's Republic of China, Ministry of Commerce, Bureau of Fair Trade for Imports, requesting Mr. Danyang to assist the Department in locating the business addresses of Weihai Machinery and ZMC. *See* Letter from Wendy Frankel to Mr. Liu Danyang dated October 18, 2005.

On October 26, 2005, the Department published a notice of partial rescission of the antidumping duty administrative review on TRBs from the PRC rescinding this review with respect to Yantai Timken and Wanxiang. *See Tapered Roller Bearings and Parts Thereof, Finished or Unfinished, from the People's Republic of China: Notice of Partial Rescission of the Antidumping Duty Administrative Review*, 70 FR 61788 (October 26, 2005) ("*Rescission Notice.*").

On February 28, 2006, the Department published a notice in the **Federal Register** extending the time limit for the preliminary results of review until May 1, 2006. *See Tapered Roller Bearings and Parts Thereof, Finished or Unfinished, from the People's Republic of China: Extension of Time Limit for the Preliminary Results of the Antidumping Duty Administrative Review*, 71 FR 10010 (February 28, 2006). Additionally, on April 28, 2006, the Department published a notice in the **Federal Register** further extending the time limit for the preliminary results of review until June 30, 2006. *See Tapered Roller Bearings and Parts Thereof, Finished or Unfinished, from the People's Republic of China: Extension of Time Limit for Preliminary Results of the Antidumping Duty Administrative Review*, 71 FR 25149 (April 28, 2006).

On October 18, 2005, ZMC reported that it does not exist anymore and subsequently responded on November 4, 2005, that it had no sales of subject merchandise during the POR. On June 15, 2006, the Department sent a letter to Mu. Huang Shan, an attorney in Shanghai, China, who assisted the Department in the previous review to help locate Weihai Machinery and to obtain its response. *See* Letter from Wendy Frankel to Mr. Huang Shan dated June 15, 2006. In our June 15 letter, we again requested that Mr. Shan assist us in contacting Weihai Machinery. On June 19, 2006, Mr. Shan responded that he was unable to contact Weihai Machinery with the contact information that he had on file. Mr. Shan also stated that last year he was told, but could not confirm, that Weihai Machinery was in the process of liquidating. *See* Memorandum to the File from Ryan Radford, Correspondence with Huang Shan regarding bankruptcy situation of Weihai Machinery, dated June 19, 2006.

On June 19, 2006, we again asked our U.S. Embassy in Beijing for assistance in contacting Weihai Machinery. On June 19, 2006, the Embassy responded that the recipient of the questionnaire sent by the Department of Weihai Machinery stated upon inquiry that Weihai Machinery was no longer in business. Additionally, on June 23, 2006, the Embassy informed us that a completely different business was not at the address and telephone number that the Department has on file for Weihai Machinery.

CMC

CMC submitted its Section A questionnaire response on September 13, 2005, and its Sections C and D response on September 30, 2005. The Department issued a Section A supplemental questionnaire to CMC on January 12, 2006, to which CMC responded on February 10, 2006. The Department issued a Sections C and D supplemental questionnaire to CMC on January 23, 2006. CMC provided its response on February 21, 2006. We issued a second supplemental questionnaire for Sections A, C, and D on March 15, 2006, and a third supplemental questionnaire for Sections A, C, and D on March 21, 2006. CMC responded to both of these questionnaires on March 31, 2006. On April 7, 2006, the Department issued its fourth supplemental questionnaire. CMC provided its fourth supplemental questionnaire response on April 12, 2006.

Notice of Intent To Rescind in Part

Pursuant to 19 CFR 351.213(d)(3), the Department may rescind an administrative review, in whole or in part, with respect to a particular exporter or producer, if the Secretary concludes that, during the period covered by the review, there were no entries, exports, or sales of the subject merchandise. The Department explains this practice in the preamble to the Department's regulations.

See Antidumping Duties; Countervailing Duties, 62 FR 27296, 27317 (May 19, 1997) ("Preamble"); *see also Stainless Steel Plate in Coils From Taiwan: Preliminary Results and Rescission in Part of Antidumping Duty Administrative Review*, 67 FR 5789, 5790 (February 7, 2002), and *Stainless Steel Plate in Coils from Taiwan: Final Rescission of Antidumping Duty Administrative Review*, 66 FR 18610 (April 10, 2001). To confirm CPZ's Chin Jun's, and ZMC's respective claims that each had no U.S. sales of subject merchandise nor shipments of subject merchandise to the United States during the POR, the Department conducted a customs inquiry. *See* Memorandum to the File from Laurel LaCivita, *Tapered Roller Bearings and parts Thereof, from the People's Republic of China, No Shipment Inquiry for Chin Jun Industrial Ltd., and peer Bearing Company—Changshan*, dated November 4, 2005, and *see* Memorandum to the File from Ryan Radford, *Tapered Roller Bearings and Parts Thereof, from the People's Republic of China, No Shipment Inquiry for Zhijiang Machinery Import & Export Corporation*, dated June 29, 2006. We have received no evidence that Chin Jun, CPZ, or ZMC had any shipments to the United States of subject merchandise during the POR. Therefore, pursuant to 19 CFR 351.213(d)(3), the Department intends to rescind this review as to Chin Jun, CPZ, and ZMC. Additionally, the customs inquiry provided no evidence that Weihai Machinery had any shipments of subject merchandise during the POR. Therefore, because information on the record indicates that Weihai Machinery had no shipments and may be out of business, the Department also preliminarily rescinds this review with respect to Weihai Machinery, but will continue to pursue this issue for the final results. The Department may take additional steps to confirm that these companies had no sales, shipments or entries of subject merchandise to the United States during the POR.

Therefore, for this administrative review, the Department will review only those sales of subject merchandise made by CMC.

Period of Review

The POR is June 1, 2004, through May 31, 2005.

Scope of the Order

Merchandise covered by this antidumping order includes TRBs and parts thereof, finished and unfinished, from the PRC; flange, take up cartridge, and hangar units incorporating tapered roller bearings, and tapered roller housings (except pillow blocks) incorporating tapered rollers, with or without spindles, whether or not for automotive use. This merchandise is currently classifiable under the Harmonized Tariff Schedule of the United States ("HTSUS") item numbers 8482.20.00, 8482.91.00.50, 8482.99.30, 8483.20.40, 8483.20.80, 8483.30.80, 8483.90.20, 8483.90.30, 8483.90.80, 8708.99.80.15, and 8708.99.80.80. Although the HTSUS item numbers are provided for convenience and customs purposes, the written description of the scope of the order is dispositive.

Verification of Responses

As provided in section 782(i) of the Tariff Act of 1930, as amended ("the Act"), we verified information provided by CMC. We used standard verification procedures of constructed export price ("CEP") and export price ("EP") sales, including on-site inspection of the manufacturers' and exporters' facilities, and examination of relevant sales and financial records.

The Department conducted a CEP sales verification at the facilities of CMC's subsidiary, YCB International Inc., in Bolingbrook, IL, from April 18, 2006, through April 21, 2006. *See Verification of the Constructed Export Sales Reported by CMC in the Antidumping Duty Administrative Review of Tapered Roller Bearings and Parts Thereof, from the People's Republic of China*, dated June 30, 2006 ("*CMC CEP Verification Report*"). The Department conducted the sales and factors of production ("FOP") verification at CMC's facilities in Yantai, Shandong Province, from May 22, 2006, through May 26, 2006. Our verification results are outlined in the verification report for CMC. For further details, *see Verification of Sales and Factors of Production Reported by CMC in the Antidumping Duty Administrative Review of Tapered Roller Bearings and Parts Thereof, from the People's Republic of China*, dated June 30, 2006 ("*CMC Verification Report*").

Surrogate Value Information

On November 2, 2005, the Department requested interested parties to submit comments on surrogate values. On December 7, 2005, we received surrogate value information from Petitioner. No other party responded to our request for information.

Nonmarket-Economy Country Status

In every case conducted by the Department involving the PRC, the PRC has been treated as a non-market economy ("NME") country. In accordance with section 771(18)(C)(i) of the Act, any determination that a foreign country is an NME country shall remain in effect until revoked by the administering authority. *See Tapered Roller Bearings and Parts Thereof, Finished and Unfinished, From the People's Republic of China; Preliminary Results of Antidumping Duty Administrative Review and Notice of Intent to Rescind in Part*, 70 FR 39744 (July 11, 2005). No party to this proceeding has contested such treatment. Accordingly, we calculated normal value ("NV") in accordance with section 773(c) of the Act, which applies to NME countries.

Surrogate Country

When the Department is investigating imports from an NME country, section 773(c)(1) of the Act directs it to base NV on the NME producer's FOPs, valued in a surrogate market-economy country or countries considered to be appropriate by the Department. IN accordance with section 773(c)(4) of the Act, in valuing the FOPs, the Department shall utilize, to the extent possible, the prices or costs of FOPs in one or more market-economy

countries that are: (1) At a level of economic development comparable to that of the NME country; and (2) significant producers of comparable merchandise. The sources of the surrogate factor values are discussed under the "*Normal Value*" section below and in the memorandum to the file from Ryan Radford, Case Analyst, through Wendy Frankel and Robert Bolling, *Preliminary Results of Review of Tapered Roller Bearings and Parts Thereof, Finished and Unfinished, from the People's Republic of China; Factors of Production Valuation Memorandum for the Preliminary Results of Review*, dated June 30, 2006 (" *Factor Valuation Memorandum*").

The Department has determined that India, Indonesia, Sri Lanka, the Philippines, and Egypt are countries comparable to the PRC in terms of economic development. *See* Memorandum from Ron Lorentzen to Wendy Frankel; *Administrative Review of Tapered Roller Bearings and Parts Thereof, Finished and Unfinished, ("TRBs"), from the People's Republic of China (PRC): Request for a List of Surrogate Countries "Policy Memo"*), dated October 11, 2005. Customarily, we select an appropriate surrogate country identified in the *Policy Memo* based on the availability and reliability of data from the countries that are significant producers of comparable merchandise.

On November 16, 2005, Petitioner submitted comments on the surrogate country selection. Petitioner stated that India is the appropriate surrogate country because India is at a comparable economic level and is a significant producer of subject merchandise. No other party to the proceeding submitted comments or information concerning the selection of a surrogate country.

On February 17, 2006, the Department issued its surrogate country memorandum in which we addressed Petitioner's comments. *See* Memorandum to the File titled, "*Antidumping Duty Administrative Review of Tapered Roller Bearings and Parts Thereof, Finished and Unfinished, from the People's Republic of China; Selection of a Surrogate Country,*" dated February 17, 2006 ("*Surrogate Country Memorandum*"). Thus, a Department has evaluated Petitioner's concerns and comments and has determined India is the appropriate surrogate country. *See Surrogate Country Memorandum.*

The Department used India as the primary surrogate country, and, accordingly, has calculated NY using Indian prices to value the PRC producers' FOPs, when available and appropriate. *See Surrogate Country Memorandum* and *Factor Valuation Memorandum*. We have obtained and relied upon publicly available information wherever possible.

In accordance with 19 CFR 351.301(c)(3)(ii), for the final results in an antidumping administrative review, interested parties may submit publicly available information to value FOPs within 20 days after the date of publication of the preliminary results or review.

Separate Rates

In proceedings involving NME countries, the Department begins with a rebuttable presumption that all companies within the country are subject to government control and, thus, should be assigned a single antidumping duty deposit rate. It is the Department's policy to assign all exporters of merchandise subject to administrative review in an NME country this single rate unless an exporter can demonstrate that it is sufficiently independent so as to be entitled to a separate rate.

We have considered whether CMC is eligible for a separate rate. The Department's separate-rate test to determine whether the exporters are independent from government control does not consider, in general, macroeconomic/border-type controls, *e.g.*, export licenses, quotas, and minimum export prices, particularly if these controls are imposed to prevent dumping. The test focuses, rather, on controls over the investment, pricing, and output decision-making process at the individual firm level. *See Tapered Roller Bearings and Parts Thereof, Finished and Unfinished, From the People's Republic of China: Final Results of Antidumping Administrative Review*, 62 FR 61276, 61279 (November 17, 1997).

To establish whether a firm is sufficiently independent from government control to be entitled to a separate rate, the Department analyzes each exporting entity under a test arising out of the *Final Determination of Sales at Less Than Fair Value: Sparklers from the People's Republic of China*, 56 FR 20588 (May 6, 1991) ("*Sparklers*") at Comment 1, as modified by *Final Determination of Sales at Less Than Fair Value: Silicon Carbide from the People's Republic of China*, 59 FR 22585, 22586–87 (May 2, 1994). Under the separate-rates criteria, the Department assigns separate rates in NME cases only if the respondent can demonstrate the absence of both *de jure* and *de facto* government control over export activities. *See Silicon Carbide* and *Final Determination of Sales at Less Than Fair Value: Furfuryl Alcohol from the People's Republic of China*, 60 FR 22544 (May 8, 1995).

A. Absence of De Jure Control

The Department considers the following *de jure* criteria in determining whether an individual company may be granted a separate rate: (1) An absence of restrictive stipulations associated with an individual exporter's business and export licenses; (2) any legislative enactments decentralizing control of companies; or (3) any other formal measures by the government decentralizing control of companies. *See Sparkers* at Comment 1 (May , 1991).

B. Absence of De Facto Control

As stated in previous cases, there is some evidence that certain enactments of the PRC central government have not been implemented uniformly among different sectors and/or jurisdictions in he PRC. *See Final Determination of Sales at Less Than Fair Value: Certain Preserved Mushrooms from the People's Republic of China*, 63 FR 72255, 72257 (December 31, 1998). Therefore, the Department has preliminarily determined that an analysis of *de facto* control is critical in determining whether respondents are, in fact, subject to a degree of government control which would preclude the Department from assigning separate rates. The Department typically considers four factors in evaluating whether each respondent is subject to *de facto* government control of its export functions: (1) Whether the exporter sets its own export prices independent of the government and without the approval o a government authority; (2) whether the respondent has authority to negotiate and sign contracts, and other agreements; (3) whether the respondent has autonomy from the government in making decisions regarding the selection of its management; and (4) whether the respondent retains the proceeds of its export sales and makes independent decisions regarding disposition of profits or financing of losses. *See Final Determination of Sales at Less Than Fair Value: Furfuryl Alcohol From the People's Republic of China*, 60 FR 22544, 22545 (May 8, 1995).

CMC placed on the record statements and documents to demonstrate the absence of *de jure* control. In its questionnaire responses, CMC reported that it is not administratively subject to any national, provincial or local government agencies. *See* CMC's September 13, 2005, Section A response ("CMC AQR") at 4. CMC submitted a copy of its business license issued by the State Administration of Industry and

Commerce. *See* CMC AQR at 4 and Exhibit 3. CMC reported that the subject merchandise did not appear on any government list regarding export provisions or export licensing in effect during the POR. CMC reported that its business license provides for a broad range of business activities and does not constrain or limit its activities with respect to the sale of the subject merchandise. Furthermore, CMC stated that The China Chamber of Commerce of Machinery and Electronic Exporters does not coordinate or interfere with CMC's export activities. CMC submitted a copy of the Foreign Trade Law of the PRC and excerpts from the "PRC Regulations for Transformation of Operational Mechanism of State-Owned Industrial Enterprises (1992)," to demonstrate that there is no centralized control over its export activities. *See* CMC AQR at 5 and Exhibit 4. Through questionnaire responses and at verification, we examined each of the related laws and CMC's business license and preliminarily determined that they demonstrate the absence of *de jure* control over the export activities and evidence in favor of the absence of government control associated with CMC's business license.

In support of an absence of *de facto* control, CMC reported the following: (1) CMC sets the prices of the subject merchandise exported to the United States by direct arm's-length negotiations with its customers, and the prices are not subject to review by or guidance from any government organization; (2) CMC's sales transactions are not subject to the review or approval of any organization outside the company; (3) CMC is not required to notify any government authorities of its management selection; and (4) CMC is free to spend its export revenues and its profit can be used for any lawful purpose. *See* CMC AQR at pages 7–8.

The evidence placed on the record of this administrative review by CMC demonstrates an absence of government control, both in law and in fact, with respect of CMC's exports of the merchandise under review. As a result, for the purposes of these preliminary results, the Department is granting a separate, company-specific rate to CMC, the exporter which shipped the subject merchandise to the United States during the POR.

Date of Sale

19 CFR 351.401(i) states that "in identifying the date of sale of the subject merchandise or foreign like product, the Secretary normally will use the date of invoice, as recorded in the exporter or producer's records kept in the normal course of business. However, the Secretary may use a date other than the date of invoice if the Secretary is satisfied that a different date better reflects the date on which the exporter or producer establishes the material terms of sale." 19 CFR 351.401 (i); *See also Allied Tube and Conduit Corp.* v. *United States*, 132 F. Supp. 2d 1087, 1090–1093 (CIT 2001).

After examining the questionnaire responses and the sales documentation that CMC placed on the record, we preliminarily determine that invoice date is the most appropriate date of sale for CMC. We made this determination based on record evidence which demonstrates that CMC's invoices establish the material terms of sale to the extent required by our regulations. Thus, the record evidence does not rebut the presumption that invoice date is the proper date of sale. *See Notice of Preliminary Determination of Sales at Less Than Fair Value: Saccharin From the People's Republic of China*, 67 FR 79049, 79054 (December 27, 2002), unchanged in *Notice of Final Determination of Sales at Less Than Fair Value: Saccharin From the People's Republic of China*, 68 FR 27530 (May 20, 2003).

Normal Value Comparisons

To determine whether sales of TRBs to the United States by CMC were made at less than NV, we compared EP or CEP to NV, as described in the "Export Price," "Constructed Export Price," and "Normal Value" sections of this notice.

Export Price

In accordance with section 772(a) of the Act, EP is the price at which the subject merchandise is first sold (or agreed to be sold) before the date of importation by the producer or exporter of the subject merchandise outside of the United States to an unaffiliated purchaser in the United States or to an unaffiliated purchaser for exportation to the United States, as adjusted under section 772(c) of the Act. In accordance with section 772(a) of the Act, we used EP for CMC's U.S. sales where the subject merchandise was sold directly to the unaffiliated customers in the United States prior to importation and because CEP was not otherwise indicated.

Constructed Export Price

In accordance with section 772(b) of the Act, CEP is the price at which the subject merchandise is first sold (or agreed to be sold) in the United States before or after the date of importation by or for the account of the producer or exporter of such merchandiser or by a seller affiliated with the producer or exporter, to a purchaser not affiliated with the producer or exporter, as adjusted under section 772(c) and (d). In accordance with section 772(b) of the Act, we used CEP for CMC's sales where CMC sold subject merchandise to its affiliated company in the United States, which in turn sold subject merchandise to unaffiliated company in the United States, which in turn sold subject merchandise to unaffiliated U.S. customers.

We compared NV to individual EP and CEP transactions, in accordance with section 777A(d)(2) of the Act.

We calculated EP for CMC based on delivered prices to unaffiliated purchasers in the United States. We made deductions from the U.S. sale price for movement expenses in accordance with section 772(c)(2)(A) of the Act. These included foreign inland freight from the plant to the port of exportation and, where applicable, ocean freight and marine insurance. No other adjustments to EP were reported or claimed.

We calculated CEP for CMC based on delivered prices unaffiliated purchasers in the United States. We made deductions from the U.S. sale price for movement expenses in accordance with section 772(c)(2)(A) of the Act. These included foreign inland freight from the plant to the port of exportation, ocean freight, marine insurance, U.S. customs duty, where applicable, U.S. inland freight from port to the warehouse, and U.S. inland freight from the warehouse to the customer. In accordance with section 772(d)(1) of the Act, the Department deducted credit expenses, inventory carrying costs and indirect selling expenses from the U.S. price, all of which relate to commercial activity in the United States. In accordance with section 773(a) of the Act, we calculated CMC's credit expenses and inventory carrying costs based on the Federal Reserve prime short-term rate. Finally, we deducted CEP profit, in accordance with sections 772(d)(3) and 772(f) of the Act. *See CMC Preliminary Results of Administrative Review: Program Analysis Memorandum* ("*Program Analysis Memo*"), dated June 30, 2006.

At verification, we found CMC did not provide any of its U.S. brokerage and handling expenses. *See CMC CEP Verification Report*. Thus, for the preliminary results, we calculated brokerage and handling expenses based on CMC's financial statements. *See Program Analysis Memo*. Additionally, at verification, CMC reported that it incorrectly reported certain payment dates. *See CMC CEP Verification Report*. For the preliminary results, we have

corrected these payment dates and recalculated credit expenses for the relevant sales. *See Program Analysis Memo.*

Normal Value

Section 773(c)(1) of the Act provides that the Department shall determine the NV using an FOP methodology if: (1) The merchandise is exported from an NME country; and (2) the information does not permit the calculate of NV using home-market prices, third-country prices, or constructed value under section 773(a) of the Act. The Department will base NV on FOPs because the presence of government control on various aspects of these economies renders price comparisons and the calculation of production costs invalid under our normal methodologies.

FOPs include: (1) Hours of labor required; (2) quantities of raw materials employed; (3) amounts of energy and other utilities consumed; and (4) representative capital costs. We used the FOPs reported by respondents for materials, energy, labor, by-products, and packing.

In accordance with 19 CFR 351.408(c)(1), the Department will normally use publicly available information to value FOPs, but when a producer sources an input from a market economy and pays for it in market-economy currency, the Department may value the factor using the actual price paid for the input. *See* 19 CFR 351.408(c)(1); *See also Lasko Metal Products* v. *United States*, 43 F.3d 1442, 1445–1446 (Fed. Cir. 1994). CMC reported that a significant portion of one of its raw material inputs was sourced from a market-economy country and paid for in market-economy currencies. *See* CMC's September 30, 2005, Section D response at page D–4 and D–7. *See Factor Valuation Memorandum* for identification of this raw material input. Pursuant to 19 CFR 351.408(c)(1), we used the actual price paid by CMC for this input purchased from a market-economy supplier and paid for in a market-economy currency, except when prices may be distorted by subsidies. See discussion below under *Factor Valuations.*

With regard to both the Indian import-based surrogate values and the market-economy input values, we have disregarded prices that we have reason to believe or suspect may be subsidized. We have to believe or suspect that prices of inputs from India, Indonesia, South Korea, and Thailand may be subsidized. We have found in other proceedings that these countries maintain broadly available, non-industry-specific export subsidies and, therefore, it is reasonable to infer that all exports to all markets form these countries may be subsidized. *See Certain Helical Spring Lock Washers from the People's Republic of China; Final Results of Administrative Review*, 61 FR 66255 (December 17, 1996), at Comment 1; and, *China National Machinery Import & Export Corporation* v. *United States*, 293 F. Supp. 2d 1334 (CIT 2003), as affirmed by the Federal Circuit, 104 Fed. Appx. 183 (Fed. Cir. 2004). We are also guided by the legislative history not to conduct a formal investigation to ensure that such prices are not subsidized. *See* H.R. Rep. 100–576 at 590 (1988). Rather, the Department was instructed by Congress to base its decision on information that is available to it at the time it is making its determination. Therefore, we have not used prices from these countries either in calculating the Indian import-based surrogate values or in calculating market-economy input values. In instances where a market-economy input was obtained solely from suppliers located in these countries, we used Indian import-based surrogate values to value the input.

Factor Valuations

In accordance with section 773(c) of the Act, we calculated NV based on FOPs reported by CMC for the POR. to calculate NC, the reported per-unit factor quantities were multiplied by publicly available Indian surrogate values (except as noted below). In selecting the surrogate values, we considered the quality, specificity, and contemporaneity of the data. As appropriate, we adjusted input prices by including freight costs to make them delivered prices. Specifically, we added to Indian import surrogate values a surrogate freight cost using the shorter of the reported distance from the domestic supplier to the factory or the distance from the nearest seaport to the factory where appropriate (*i.e.*, where the sales terms for the market-economy inputs were not delivered to the factory). This adjustment is in accordance with the decision of the Federal Circuit in *Sigma Corp.* v. *United States*, 117 F. 3d 1401 (Fed. Cir. 1997). For a detailed description of all surrogate values used for respondents, *See Factor Valuation Memorandum.*

Except as noted below, we valued raw material inputs using the weighted-average unit import values derived from the World Trade Atlas® online ("Indian Import Statistics"), which were published by the Directorate General of Commercial Intelligence and Statistics ("DGCI&S"), Ministry of Commerce of India, which were reported in rupees and are contemporaneous with the POR. *See Factor Valuation Memorandum.* Where we could not obtain publicly valuable information contemporaneous with the POR with which to value factors, we adjusted the surrogate values using the Indian Wholesale Price Index ("WPI") as published in the *International Financial Statistics* of the International Monetary Fund.

To value electricity, we used values from the International Energy Agency ("IEA") to calculate a surrogate value in India. The Department was unable to find a more contemporaneous surrogate value than the 2000 value reported by the IEA. Therefore we in inflated the IEA 2000 Indian price for electricity to the POR.

For direct labor, indirect labor, selling general and administrative expenses ("SG&A") labor, crate building labor and packing labor, consistent with 19 CFR 351,408(c)(3), we used the PRC regression-based wage rate as reported on Import Administration's home page, Import Library, Expected Wages of Selected NME Countries, revised in November 2005, *http://ia.ita.doc.gov/wages*. The source of these wage rate data on the Import Administration's Web site is the Yearbook of Labour Statistics 2003, ILO, (Geneva: 2003), Chapter 5B: Wages in Manufacturing. The years of the reported wage rates range from 1996 to 2003. Because this regression-based wage rate does not separate the labor rates into different skill levels or types of labor we have applied the same wage rate to all skill levels and types of labor reported by CMC.

We used Indian transports information in order to value the freight-in cost of the raw materials. The Department determined the best available information for valuing truck freight to be from *www.infreight.com.* This source provides daily rates from six major points of origin to five destinations in India during the POR. The Department obtained a price quote on the first day of each month of the POR from each point or origin to each destination and averaged the data accordingly. *See Factor Valuation Memorandum.* Additionally, at verification, we found that CMC did not report the total round-trip distance from its main factory to other factories for the transportation of certain raw materials and certain semi-finished components. Thus, for the preliminary results, we have included these transportation costs into our calculation for surrogate values for certain raw materials. *See Program Analysis Memo.*

Top value factory overhead, depreciation, SG&A, interest expenses and profit, we used the 2004 audited financial statements for two Indian producers of TRBs, SKF Bearings India Ltd., and Timken India Limited. *See Factor Valuation Memorandum* for a full discussion of the calculation of these ratios from the Indian companies' financial statements.

In order to demonstrate that prices paid to market-economy sellers for some portion of a given input are representative of prices paid overall for that input, the amounts purchased from the market-economy supplier must be meaningful. *See Antidumping Duties; Countervailing Duties; Final Rule*, 62 FR 27296, 27366 (May 19, 1997). Where the quantity of the input purchased from market-economy suppliers is insignificant, the Department will not rely on the price paid by an NME producer to a market-economy supplier because it cannot have confidence that a company could fulfill all its needs at that price. CMC's reported information demonstrates that the quantity of steel purchased from market-economy suppliers and used to produce cups and cones is significant *See* CMC's September 30, 2005, Section D response at page D–7. Therefore, we used the actual price that CMC paid for the steel used to produce cups and cones in our calculations.

CMC reported that it sourced the steel that it used to produce cages within the PRC. Therefore, we used Indian Import Statistics to value this input. CMC reported that it recovered steel scrap from the production of cups, cones, rollers and cages for resale. We offset CMC's normal value by the amount of scrap that CMC reported that sold. *See Factor Valuation Memorandum* for a complete discussion of scrap valuation.

Finally, we used POR Indian Import Statistics to value material inputs for packing which, for CMC, are plastic film, plastic bags, plastic sleeves, large plastic bags, cardboard box, paper pallets, plastics strip, adhesive tape, and steel strips. *See Factor Valuation Memorandum.*

Currency Conversion

We made currency conversions into U.S. dollars, in accordance with section 773A(a) of the Act, based on the exchange rates in effect on the dates of the U.S. sales as certified by the Federal Reserve Bank.

Preliminary Results of Review

We preliminarily determine that the following weighted-average dumping margins exist for the period June 1, 2004, through May 31, 2005:

TRBs From the PRC

Producer/exporter	Weighted-average margin (percent)
CMC	0.00

Disclosure

The Department will disclose calculations performed for these preliminary results to the parties within five days of the date of publication of this notice in accordance with 19 CFR 351.224(b). Any interested party may request a hearing within 30 days of publication of these preliminary results. *See* 19 CFR 351.310(c). Any hearing, if requested, will be held 37 days after the date of publication of this notice. *See* 19 CFR 351.310(d). Interested parties may submit case briefs and/or written comments no later than 30 days after the date of publication of these preliminary results of review. *See* 19 CFR 351.309(c)(ii). Rebuttal briefs and rebuttals to written comments, limited to issues raised in such briefs or comments, may be filed no later than 35 days after the date of publication. *See* 19 CFR 351.309(d). The Department requests that parties submitting written comments also provide the Department with an additional copy of those comments on diskette. The Department will issue the final results of this administrative review, which will include the results of its analysis of issues raised in any such comments, within 120 days of publication of these preliminary results, pursuant to section 751(a)(3)(A) of the Act.

Assessment Rates

Upon issuance of the final results, the Department will determine, and CBP shall assess, antidumping duties on all appropriate entries. The Department will issue appropriate assessment instructions directly to CBP upon completion of this review. If these preliminary results are adopted in our final results of review, we will direct CBP to assess the resulting rate against the entered customs value for the subject merchandise on each importer's/customer's entries during the POR, except where the importer or customer's rate is zero or *de minimis* no duties will be assessed. Additionally, the Department will instruct CBP to assess antidumping duties for these rescinded companies (*i.e.*, ZMC, CPZ, Weihai Machinery, and Chin Jun) at rates equal to the cash deposit of estimated antidumping duties required at the time of entry, or withdrawal from warehouse, for consumption, in accordance with 19 CFR 351.212(c)(1)(i).

Cash-Deposit Requirements

The following cash-deposit requirements will be effective upon publication of the final results of this administrative review for all shipments of the subject merchandise from the PRC entered, or withdrawn from warehouse, for consumption on or after the publication date, as provided by section 751(a)(2)(C) of the Act: (1) For CMC, the cash deposit rate will be that established in the final results of these reviews, except if the rate is zero or *de minimis* no cash deposit will be required; (2) for previously investigated or reviewed PRC and non-PRC exporters not listed above that have separate rates, the cash deposit rate will continue to be the exporter-specific rate published for the most recent period; (3) for all PRC exporters of subject merchandise which have not been found to be entitled to a separate rate, the cash deposit rate will be the PRC-wide rate of 60.95 percent; and (4) for all non-PRC exporters of subject merchandise which have not received their own rate, the cash deposit rate will be the rate applicable to the PRC exporters that supplied that non-PRC exporter. These deposit requirements, when imposed, shall remain in effect until publication of the final results of the next administrative review.

Notification to Importers

This notice also serves as a preliminary reminder to importers of their responsibility under 19 CFR 351.402(f) to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in the Secretary's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of double antidumping duties.

We are issuing and publishing these preliminary results of review in accordance with sections 751(a)(2)(B) and 777(i)(1) of the Act, and 19 CFR 351.221(b).

Dated: June 30, 2006.

David M. Spooner,

Assistant Secretary for Import Administration.

[FR Doc. 06–6238 Filed 7–13–06; 8:45 am]

BILLING CODE 3510–DS–M

DEPARTMENT OF COMMERCE

International Trade Administration, Commerce.

Export Trade Certificate of Review

ACTION: Notice of Issuance of an Amended Export Trade Certificate of Review, Application No. 05–A0001.

SUMMARY: On July 11, 2006, The U.S. Department of Commerce issued an amended Export Trade Certificate of Review to Central America Poultry Export Quota, Inc. ("CA–PEQ").

FOR FURTHER INFORMATION CONTACT: Jeffrey C. Anspacher, Director, Export Trading Company Affairs, International Trade Administration, (202) 482–5131 (this is not a toll-free number) or E-mail at *oetca@ita.doc.gov*.

SUPPLEMENTARY INFORMATION: Title III of the Export Trading Company Act of 1982 (15 U.S.C. 4001–21) authorizes the Secretary of Commerce to issue Export Trade Certificates of Review. The regulations implementing Title III are found at 15 CFR Part 325 (2005).

Export Trading Company Affairs ("ETCA") is issuing this notice pursuant to 15 CFR 325.6(b), which requires the U.S. Department of Commerce to publish a summary of the certification in the **Federal Register**. Under Section 305(a) of the Act and 15 CFR 325.11(a), any person aggrieved by the Secretary's determination may, within 30 days of the date of this notice, bring an action in any appropriate district court of the United States to set aside the determination on the ground that the determination is erroneous.

Description of Amended Certificate

The original CA–PEQ Certificate (No. 05–00001) was issued on January 30, 2006 (71 FR 6753, February 9, 2006).

CA–PEQ's Export Trade Certificate of Review has been amended to:

1. Add the following association as a new "Member" of the Certificate within the meaning of § 325.2(1) of the Regulations (15 CFR 325.2(1)): Federacion de Avicultores de Honduras ("FEDAVIH"), San Pedro Sula, Honduras.

The effective date of the amended certificate is April 12, 2006. A copy of the amended certificate will be kept in the International Trade Administration's Freedom of Information Records Inspection Facility, Room 4100, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230.

Dated: July 11, 2006.

Jeffrey C. Anspacher,

Director, Export Trading Company Affairs.

[FR Doc. E6–11110 Filed 7–13–06; 8:45 am]

BILLING CODE 3510–DR–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 070706A]

Atlantic Coastal Fisheries Cooperative Management Act Provisions; Application for Exempted Fishing Permit Related to Horseshoe Crabs

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

ACTION: Notice; request for comments.

SUMMARY: NMFS announces that the Director, Office of Sustainable Fisheries, is considering issuing an Exempted Fishing Permit to Limuli Laboratories of Cape May Court House, NJ, to conduct the sixth year of an exempted fishing operation otherwise restricted by regulations prohibiting the harvest of horseshoe crabs in the Carl N. Schuster Jr. Horseshoe Crab Reserve (Reserve) located 3 nautical miles (nm) seaward from the mouth of the Delaware Bay. If granted, the EFP would allow the harvest of 10,000 horseshoe crabs for biomedical purposes and require, as a condition of the EFP, the collection of data related to the status of horseshoe crabs within the Reserve. This notice also invites comments on the issuance of the EFP to Limuli Laboratories.

DATES: Written comments on this action must be received on or before July 31, 2006.

ADDRESSES: Written comments should be sent to Alan Risenhoover, Acting Director, Office of Sustainable Fisheries, NMFS, 1315 East-West Highway, Room 13362, Silver Spring, MD 20910. Mark the outside of the envelope "Comments on Horseshoe Crab EFP Proposal." Comments may also be sent via fax to (301) 713–0596. Comments on this notice may also be submitted by e-mail to: *Horseshoe-Crab.EFP@noaa.gov*. Include in the subject line of the e-mail comment the following document identifier: Horseshoe Crab EFP Proposal.

FOR FURTHER INFORMATION CONTACT: Tom Meyer, Fishery Management Biologist, (301) 713–2334.

SUPPLEMENTARY INFORMATION:

Background

The regulations that govern exempted fishing, at 50 CFR 600.745(b) and 697.22, allow a Regional Administrator or the Director of the Office of Sustainable Fisheries to authorize for limited testing, public display, data collection, exploration, health and safety, environmental clean-up and/or hazardous removal purposes, the targeting or incidental harvest of managed species that would otherwise be prohibited. Accordingly, an EFP to authorize such activity may be issued, provided: there is adequate opportunity for the public to comment on the EFP application, the conservation goals and objectives of the fishery management plan are not compromised, and issuance of the EFP is beneficial to the management of the species.

The Reserve was established on March 7, 2001, to protect the Atlantic coast stock of horseshoe crabs and to support the effectiveness of the Atlantic States Marine Fisheries Commission's (Commission) Interstate Fishery Management Plan (ISFMP) for horseshoe crabs. The final rule (February 5, 2001; 66 FR 8906) . prohibited fishing for and possession of horseshoe crabs in the Reserve on a vessel with a trawl or dredge gear aboard while in the Reserve. While the rule did not allow for any biomedical harvest or the collection of fishery dependent data, NMFS stated in the comments and responses section that it would consider issuing EFPs for the biomedical harvest of horseshoe crabs in the Reserve.

The biomedical industry collects horseshoe crabs, removes approximately 30 percent of their blood, and returns them alive to the water. Approximately 10 percent do not survive the bleeding process. The blood contains a reagent called Limulus Amebocyte Lysate (LAL) that is used to test injectable drugs and medical devices for bacteria and bacterial by-products. Presently, there is no alternative to the LAL derived from horseshoe crabs.

NMFS manages horseshoe crabs in the exclusive economic zone in close cooperation with the Commission and the U.S. Fish and Wildlife Service. The Commission's Horseshoe Crab Management Board met on April 21, 2000, and again on December 16, 2003, and recommended to NMFS that biomedical companies with a history of collecting horseshoe crabs in the Reserve be given an exemption to continue their historic levels of collection not to exceed a combined harvest total of 10,000 crabs annually. In 2000, the Commission's Horseshoe Crab Plan Review Team reported that biomedical harvest of up to 10,000 horseshoe crabs should be allowed to continue in the Reserve given that the

resulting mortality should be only about 1,000 horseshoe crabs (10 percent mortality during bleeding process). Also in 2000, the Commission's Horseshoe Crab Stock Assessment Committee Chairman recommended that, in order to protect the Delaware Bay horseshoe crab population from over-harvest or excessive collection mortality, no more than a maximum of 20,000 horseshoe crabs should be collected for biomedical purposes from the Reserve. In addition to the direct mortality of horseshoe crabs that are bled, it can be expected that more than 20,000 horseshoe crabs will be trawled up and examined for LAL processing. This is because horseshoe crab trawl catches usually include varied sizes and sexes of horseshoe crabs and large female horseshoe crabs are the ones usually selected for LAL processing. The remaining horseshoe crabs are released at sea with some unknown amount of mortality. Although unknown, this mortality is expected to be negligible.

Collection of horseshoe crabs for biomedical purposes from the Reserve is necessary because of the low numbers of horseshoe crabs found in other areas along the New Jersey Coast from July through early November and because of the critical role horseshoe crab blood plays in health care. In conjunction with the biomedical harvest, NMFS is considering requiring that scientific data be collected from the horseshoe crabs taken in the Reserve as a condition of receiving an EFP. Since the Reserve was first established, the only fishery data from the Reserve were under EFPs issued to Limuli Laboratories for the past five years, and under Scientific Research Activity Letter of Acknowledgment issued Virginia Polytechnic Institute and State University's Department of Fisheries and Wildlife Science on September 4, 2001 (for collections from September 1–October 31, 2001), on September 24, 2002 (for collections from September 24–November 15, 2002), on August 14, 2003 (for collections from September 1–October 31, 2003), on September 15, 2004 (for collections from September 15–October 31, 2004), and on September 9, 2005 (for collections from September 9–October 30, 2005). Further data are needed to improve the understanding of the horseshoe crab population in the Delaware Bay area and to better manage the horseshoe crab resource under the cooperative state/Federal management program. The data collected through the EFP will be provided to NMFS, the Commission, and to the State of New Jersey.

Results from 2005 EFP

Limuli Laboratories applied for an EFP to collect horseshoe crabs for biomedical and data collection purposes from the Reserve in 2005. The EFP application specified that: (1) the same methods would be used in 2005 that were used in years 2001–2004, (2) 15 percent of the bled horseshoe crabs would be tagged - an increase from 10 percent, and (3) there had not been any sighting or capture of marine mammals or endangered species in the trawling nets of fishing vessels engaged in the collection of horseshoe crabs since 1993. In 2005, a Supplemental Environmental Assessment was completed and found that there was no significant impacts in conducting the EFP.

An EFP was issued to Limuli Laboratories on July 12, 2005, which allowed them to collect horseshoe crabs in the Reserve until November 30, 2005. A total of 5,480 horseshoe crabs were collected in the Reserve during the late summer and early fall of 2005. Of these, 4,681 animals were used for the manufacture of LAL. Female horseshoe crab activity levels were 75 percent active and 25 percent very active, while males were 59 percent active and 41 percent very active. The remaining 799 animals were rejected; 373 crabs (6.8 percent) were unresponsive due to collecting, transporting and handling (presumed dead), and 426 animals (7.9 percent) were rejected for biomedical use due to lethargy or injury. Horseshoe crabs were collected on 11 days (9 days in August and 2 days in September), and were transported to the laboratory for the bleeding operation and inspected for sex, size, injuries and responsiveness. Three to four tows were conducted during each fishing trip with the tows lasting no more than 30 minutes to avoid impacting loggerhead turtles. Horseshoe crabs were unloaded at Two Mile Dock, Wildwood Crest, New Jersey and at County Dock, Ocean City, Maryland and transported to the laboratory by truck. Since large horseshoe crabs, which are generally females, are used for LAL processing, most of the crabs transported to the laboratory were females. Of those 4,681 processed for LAL, 100 female and 100 male crabs were measured (inter-ocular distances and prosoma widths), weighed, aged, and tagged to establish baseline morphometrics and ages, prior to being released. An additional 625 female bled animals were tagged for a total of 825 animals or 17.6 percent. The average measurements for the female horseshoe crabs were 161.64 mm (166.32 mm in 2004) for the inter-ocular distance, 260.4 mm (264.90 mm in 2004) for the prosoma width and 2.08 kg (2.39 kg in 2004) for the weight. The average measurements for the male horseshoe crabs were 127.14 mm for the inter-ocular distance, 217.52 mm for the prosoma width and 1.02 kg for the weight. No male horseshoe crabs were measured in 2004. Encrusting organisms (bryozoans, barnacles, slipper shells, and sand tub worms) were found on 18 (9 percent) of the female animals and 28 (14 percent) of the horseshoe crabs examined. Eight (4 percent) of the female horseshoe crabs had broken tails, four had dents in their prosomas, and one had a malformed right wing prosoma. Eight (4 percent) of the males had broken tails and one had a hole on the right side of the prosoma.

Horseshoe crabs were aged in 2005 using Dr. Carl N. Schuster Jr.'s criteria of aging by appearance: female horseshoe crabs - virgin (65 percent), young (4 percent), young/medium (29 percent), and old (2 percent); male horseshoe crabs - virgin (8 percent), young (52 percent), young/medium (24 percent), and old (16 percent) . This finding supports the basis for the Reserve, which was established to protect young horseshoe crabs.

In 2005, a total of 825 horseshoe crabs from the Reserve were tagged and released at the water's edge on Highs Beach, New Jersey. The beach was checked frequently, following release, to ensure the crabs had returned to the water. Seventeen live recoveries and seven dead recoveries were documented. The live recoveries were found along the shores of the Delaware Bay (Fowlers Beach, Kitts Hummock and Slaughter Beach in Delaware and Cape May, Del Haven, East Point, Egg Island, Higbees and Thompson in New Jersey). One horseshoe crab was observed along the Atlantic coast off Sea Isle City in New Jersey.

Data collected under the EFP were supplied to NMFS, the Commission, and the State of New Jersey.

Proposed 2005 EFP

Limuli Laboratories proposes to conduct an exempted fishery operation using the same means, methods, and seasons utilized during the EFPs in 2001–2005, as described below under terms and conditions. Limuli proposes to continue to tag 15 percent of the bled horseshoe crabs as they did in 2005, up from 10 percent during years 2001–2003.

The proposed EFP would exempt three commercial vessels from regulations at 50 CFR 697.7(e), which prohibit fishing for horseshoe crabs in the Reserve under § 697.23(f)(1) and

prohibit possession of horseshoe crabs on a vessel with a trawl or dredge gear aboard in the same Reserve.

Limuli Laboratories, in cooperation with the State of New Jersey's Division of Fish and Wildlife, submitted an application for an EFP on July 5, 2006. NMFS has made a preliminary determination that the subject EFP contains all the required information and warrants further consideration. NMFS has also made a preliminary determination that the activities authorized under the EFP would be consistent with the goals and objectives of the Federal horseshoe crab regulations and the Commission's Horseshoe Crab ISFMP.

Regulations at 50 CFR 600.745(b)(3)(v) authorize NMFS to attach terms and conditions to the EFP consistent with: the purpose of the exempted fishery, the objectives of horseshoe crab regulations and fisheries management plan, and other applicable law. NMFS is considering adding the following terms and conditions to the EFP:

1. Limiting the number of horseshoe crabs collected in the Reserve to no more than 500 crabs per day and to a total of no more than 10,000 crabs per year;

2. Requiring collections to take place over a total of approximately 20 days during the months of July, August, September, October, and November. Horseshoe crabs are readily available in harvestable concentrations nearshore earlier in the year, and offshore in the Reserve from July through November;

3. Requiring that a 5 1/2 inch (14.0 cm) flounder net be used by the vessel to collect the horseshoe crabs. This condition would allow for continuation of traditional harvest gear and adds to the consistency in the way horseshoe crabs are harvested for data collection;

4. Limiting trawl tow times to 30 minutes as a conservation measure to protect sea turtles, which are expected to be migrating through the area during the collection period, and are vulnerable to bottom trawling;

5. Restricting the hours of fishing to daylight hours only, approximately from 7:30 a.m. to 5 p.m. to aid law enforcement. NMFS also is considering a requirement that the State of New Jersey Law Enforcement be notified daily as to when and where the collection will take place;

6. Requiring that the collected horseshoe crabs be picked up from the fishing vessels at docks in the Cape May Area and transported to local laboratories, bled for LAL, and released alive the following morning into the Lower Delaware Bay; and

7. Requiring that any turtle take be reported to NMFS, NERO Assistant Regional Administrator of Protected Resources Division (phone, (978) 281–9328) within 24 hours of returning from the trip in which the incidental take occurred.

Also as part of the terms and conditions of the EFP, for all horseshoe crabs bled for LAL, NMFS is considering a requirement that the EFP holder provide data on sex ratio and daily numbers, and tag 15 percent of the horseshoe crabs harvested. Also, the EFP holder may be required to examine at least 200 horseshoe crabs for: morphometric data, by sex (e.g., interocular (I/O) distance and weight), and level of activity, as measured by a response or by distance traveled after release on a beach.

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

Dated: July 10, 2006.

Alan D. Risenhoover,

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

[FR Doc. E6–11067 Filed 7–13–06; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 071106E]

Gulf of Mexico Fishery Management Council; Public Meetings

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

ACTION: Notice of Closed Session Advisory Panel Selection Committee Conference Call.

SUMMARY: The Gulf of Mexico Fishery Management Council (Council) will convene its Advisory Panel Selection Committee via Conference Call to select participants for Ad Hoc Shrimp Effort AP, SEDAR NGO AP, and review AP Member Violations Material for recommendation to the Council.

DATES: The conference call will be held on Thursday, August 3, 2006, from 11 a.m. EDT to 12 noon EDT.

ADDRESSES: Meeting address: The meeting will be held via Closed Session conference call.

Council address: Gulf of Mexico Fishery Management Council, 2203 North Lois Avenue, Suite 1100, Tampa, Florida 33607.

FOR FURTHER INFORMATION CONTACT: Mr. Wayne Swingle, Executive Director, Gulf of Mexico Fishery Management Council; telephone: 813.348.1630.

SUPPLEMENTARY INFORMATION: The Gulf of Mexico Fishery Management Council (Council) will convene its Advisory Panel Selection Committee via Conference Call to select participants for Ad Hoc Shrimp Effort AP, SEDAR NGO AP, and review AP Member Violations Material in a closed session conference call on Thursday, August 3, 2006, at 11 a.m. EDT. The Committee recommendations will be presented to the Council at the August 14–18, 2006, Council Meeting in Baton Rouge, LA.

Special Accommodations

These meetings are physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Tina Trezza at the Council (see **ADDRESSES**) at least five working days prior to the meeting.

Dated: July 11, 2006.

Tracey L. Thompson,

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

[FR Doc. E6–11161 Filed 7–13–06; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 071106C]

Fisheries of the South Atlantic, Gulf of Mexico, and Caribbean; Southeastern Data, Assessment, and Review (SEDAR) Steering Committee Meeting

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

ACTION: Notice of the SEDAR Steering Committee Meeting.

SUMMARY: The SEDAR Steering Committee will meet to discuss the SEDAR schedule; consider modifications to the SEDAR process; discuss the assessment update process; and establish the assessment schedule for 2006 and 2007. See **SUPPLEMENTARY INFORMATION.**

DATES: The SEDAR Steering Committee will meet on Tuesday, August 1, 2006, from 9 a.m. to 5 p.m.; and Wednesday, August 2, 2005, from 9 a.m. to 12 p.m.

ADDRESSES: The meeting will be held at the Marriott Frenchman's Reef, 5 Estate Bakkeroe, St. Thomas, USVI, 00802. Phone: (340) 776–8500 / Fax: (340) 715–6191.

FOR FURTHER INFORMATION CONTACT: John Carmichael, SEDAR Coordinator, SEDAR/SAFMC, One Southpark Circle, Suite 306, Charleston, S.C., 29407; phone (843) 571–4366 or toll free (866) SAFMC–10; FAX (843) 769–4520.

SUPPLEMENTARY INFORMATION: The South Atlantic, Gulf of Mexico, and Caribbean Fishery Management Councils; in conjunction with NOAA Fisheries, the Atlantic States Marine Fisheries Commission, and the Gulf States Marine Fisheries Commission; implemented the Southeast Data, Assessment and Review (SEDAR) process, a multi-step method for determining the status of fish stocks. The SEDAR Steering Committee provides oversight of the SEDAR process, establishes assessment priorities, and provides coordination between assessment efforts and management activities. The SEDAR Steering Committee meets twice annually.

During this meeting the Steering Committee will consider benchmark assessments during 2007–2011 and update assessments in 2007 and 2008. The Committee will receive the report of the king mackerel mixing subcommittee and the evaluation of research and monitoring needs for scheduled assessments. The Committee will review the update process, consider the time allotted to complete benchmark assessments, evaluate options for securing review panel chairs, evaluate review panel products, and clarify assessment presentation procedures.

Special Accommodations

These meetings are physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to the South Atlantic Fishery Management Council office at the address listed above at least 5 business days prior to the meeting.

Dated: July 11, 2006.

Tracey L. Thompson,

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

[FR Doc. E6–11159 Filed 7–13–06; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 071106D]

Fisheries of the Gulf of Mexico; Southeastern Data, Assessment, and Review (SEDAR); Gulf of Mexico Red Grouper

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

ACTION: Notice of SEDAR Data, Assessment, and Review Workshops for Gulf of Mexico red grouper.

SUMMARY: The SEDAR assessment of the Gulf of Mexico stock of red grouper will be developed through a series of three workshops: a Data Workshop, an Assessment Workshop, and a Review Workshop. This is the twelfth SEDAR. See **SUPPLEMENTARY INFORMATION.**

DATES: The Data Workshop will take place July 24–28, 2006; the Assessment Workshop will take place October 16–20, 2006; the Review Workshop will take place January 29–February 2, 2007. See **SUPPLEMENTARY INFORMATION.**

ADDRESSES: The Data Workshop will be held at the Hilton St. Petersburg Bayfront, 333 First Street South, St. Petersburg, FL 33701. Phone (727) 894–5000. The Assessment Workshop will be held at the Doubletree Coconut Grove, 2649 South Bayshore Drive, Miami, FL 33133. Phone (305) 858–2500. The Review Workshop will be held at the Doubletree Atlanta Buckhead, 3342 Peachtree Road NE, Atlanta GA 30326. Phone (404) 231–1234.

FOR FURTHER INFORMATION CONTACT: Steven Atran, Gulf of Mexico Fishery Management Council (GMFMC), 2203 North Lois Avenue, Suite 1100, Tampa FL 33607. Phone: (813) 348–1630. John Carmichael, SEDAR Coordinator, One Southpark Circle # 306, Charleston, SC 29414. (843) 571–4366.

SUPPLEMENTARY INFORMATION: The Gulf of Mexico, South Atlantic, and Caribbean Fishery Management Councils, in conjunction with NOAA Fisheries and the Atlantic and Gulf States Marine Fisheries Commissions have implemented the Southeast Data, Assessment and Review (SEDAR) process, a multi-step method for determining the status of fish stocks in the Southeast Region. SEDAR includes three workshops: 1) Data Workshop, 2) Stock Assessment Workshop and 3) Review Workshop. The product of the Data Workshop is a data report which compiles and evaluates potential datasets and recommends which datasets are appropriate for assessment analyses. The product of the Stock Assessment Workshop is a stock assessment report which describes the fisheries, evaluates the status of the stock, estimates biological benchmarks, projects future population conditions, and recommends research and monitoring needs. The assessment is independently peer reviewed at the Review Workshop. The products of the Review Workshop are a Consensus Summary documenting Panel opinions regarding the strengths and weaknesses of the stock assessment and input data, and an Advisory Report summarizing stock status and recommending management criteria. Participants for SEDAR Workshops, appointed by the regional Fishery Management Councils, the SERO, and the SEFSC, include data collectors and database managers; stock assessment scientists, biologists, and researchers; constituency representatives including fishermen, environmentalists, and NGO's; International experts; and staff of Councils, Commissions, and state and federal agencies. SEDAR workshops are open to the public.

SEDAR 12 Workshop Schedule

July 24–28, 2006; SEDAR 12 Data Workshop

July 24, 2006: 1 p.m.–8 p.m.; July 25–27, 2006: 8 a.m.–8 p.m.; July 28, 2006: 8 a.m.–1 p.m. An assessment data set and associated documentation will be developed during the Data Workshop. Participants will evaluate all available data and select appropriate sources for providing information on life history characteristics, catch statistics, discard estimates, length and age composition, and fishery dependent and fishery independent measures of stock abundance.

October 16–20, 2006. SEDAR 12 Assessment Workshop

October 16, 2006: 1 p.m.–8 p.m.; October 17–19, 2006: 8 a.m.–8 p.m.; October 20, 2006: 8 a.m.–1 p.m. Using datasets provided by the Data Workshop, participants will develop population models to evaluate stock status, estimate population benchmarks and Sustainable Fisheries Act criteria, and project future conditions. Participants will recommend the most appropriate methods and configurations for determining stock status and estimating population parameters. Participants will prepare a workshop report, compare and contrast various assessment approaches, and determine

whether the assessments are adequate for submission to the review panel.

January 29–February 2, 2007. SEDAR 12 Review Workshop

January 29, 2007: 1 p.m.–8 p.m.; January 30–February 1, 2007: 8 a.m.–8 p.m.; February 2, 2007: 8 a.m.–1 p.m.

The Review Workshop is an independent peer review of the assessment developed during the Data and Assessment Workshops. Workshop Panelist appointed by the Center for Independent Experts (CIE) will review the assessment and document their comments and recommendations in a Consensus Summary. The Panel will summarize recommended population parameter estimates in an Advisory Report.

Special Accommodations

These meetings are physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to the Council office (see **ADDRESSES**) at least 5 business days prior to each workshop.

Dated: July 11, 2006.

Tracey L. Thompson,

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

[FR Doc. E6–11160 Filed 7–13–06; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 051605B]

Endangered Species; Permit No. 1486

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

ACTION: Notice; issuance of permit modification.

SUMMARY: Notice is hereby given that Harold M. Brundage has been issued a modification to scientific research Permit No. 1486.

ADDRESSES: The modification and related documents are available for review upon written request or by appointment in the following offices:

Permits, Conservation and Education Division, Office of Protected Resources, NMFS, 1315 East-West Highway, Room 13705, Silver Spring, MD 20910; phone (301)713–2289; fax (301)427–2521; and

Northeast Region, NMFS, One Blackburn Drive, Gloucester, MA 01930–2298; phone (978)281–9328; fax (978)281–9394.

FOR FURTHER INFORMATION CONTACT: Shane Guan or Tammy Adams, (301)713–2289.

SUPPLEMENTARY INFORMATION: On September 23, 2004, notice was published in the **Federal Register** (69 FR 56998) that an modification of Permit No. 1486, issued on December 29, 2004 (69 FR 77998), had been requested by Mr. Brundage. The requested modification has been issued under the authority of the Endangered Species Act of 1973, as amended (ESA; 16 U.S.C. 1531 *et seq.*) and the regulations governing the taking, importing, and exporting of endangered and threatened species (50 CFR parts 222–226).

Issuance of this modification, as required by the ESA, was based on a finding that such modification (1) Was applied for in good faith, (2) will not operate to the disadvantage of such endangered or threatened species, and (3) is consistent with the purposes and policies set forth in section 2 of the ESA.

Dated: July 10, 2006.

P. Michael Payne,

Chief, Permits, Conservation and Education Division, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. E6–11133 Filed 7–13–06; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 070506C]

Vessel Monitoring Systems; Approved Mobile Transmitting Unit for Vessels Issued Permits to Operate in the Northwestern Hawaiian Islands Marine National Monument

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

ACTION: Notice of approved vessel monitoring system.

SUMMARY: This document provides notice of vessel monitoring systems (VMS) approved by NOAA for use by vessels issued permits to operate in the Northwestern Hawaiian Islands Marine National Monument and sets forth relevant features of the VMS.

ADDRESSES: To obtain copies of the list of NOAA-approved VMS mobile transmitting units and NOAA-approved VMS communications service providers, or information regarding the status of VMS systems being evaluated by NOAA for approval, write to NOAA Fisheries Office for Law Enforcement (OLE), 8484 Georgia Avenue, Suite 415, Silver Spring, MD 20910.

To submit a completed and signed checklist, mail or fax it to NOAA Fisheries Office for Law Enforcement, 8484 Georgia Ave, Suite 415, Silver Spring, MD 20910, fax 301–427–0049. For more addresses regarding approved VMS, see the **SUPPLEMENTARY INFORMATION** section, under the heading "VMS Provider Address".

FOR FURTHER INFORMATION CONTACT: For current listing information contact Mark Oswell, Outreach Specialist, phone 301–427–2300, fax 301–427–2055. For questions regarding VMS installation, and status of evaluations, contact Jonathan Pinkerton, National VMS Program Manager, phone 301–427–2300; fax 301–427–0049. The public may acquire this notice, installation/activation checklists, and relevant updates by calling the VMS support center, phone 888–219–9228, fax 301–427–0049.

SUPPLEMENTARY INFORMATION:

I. VMS Mobile Transceiver Unit

Thrane & Thrane Sailor 3026D Gold VMS

The Thrane & Thrane Sailor 3026D Gold VMS (TT–3026D) has been found to meet the minimum technical requirements for vessels issued permits to operate in the Northwestern Hawaiian Islands Marine National Monument. The address for the Thrane & Thrane distributor contact is provided in this notice under the heading VMS Provider Address.

The TT–3026D Gold VMS features an integrated GPS/Inmarsat-C unit and a marine grade monitor with keyboard and integrated mouse. The unit is factory pre-configured for NMFS VMS operations (non-Global Maritime Distress & Safety System (non-GMDSS)). Satellite commissioning services are provided by Thrane & Thrane personnel.

Automatic GPS position reporting starts after transceiver installation and power activation onboard the vessel. The unit is an integrated transceiver/antenna/GPS design using a floating 10 to 32 VDC power supply. The unit is configured for automatic reduced position transmissions when the vessel is stationary (i.e., in port). It allows for port stays without power drain or power shut down. The unit restarts normal position transmission automatically when the vessel goes to sea.

The TT–3026D provides operation down to +/-15 degree angles. The unit has the capability of two-way

communications to send formatted forms and to receive e-mail and other messages. A configuration option is available to automatically send position reports to a private address, such as a fleet management company.

A vessel owner may purchase this system by contacting the entity identified in this notice under the heading "VMS Provider Address". The owner should identify himself or herself as a vessel owner issued a permit to operate in the Northwestern Hawaiian Islands Marine National Monument, so the transceiver set can be properly configured. To use the TT–3026D the vessel owner will need to establish an Inmarsat-C system use contract with an approved Inmarsat-C communications service provider. The owner will be required to complete the Inmarsat-C "Registration for Service Activation for Maritime Mobile Earth Station." The owner should consult with Thrane & Thrane when completing this form.

Thrane & Thrane personnel will perform the following services before shipment: (1) configure the transceiver according to OLE specifications for vessels issued permits to operate in the Northwestern Hawaiian Islands Marine National Monument; (2) download the predetermined NMFS position reporting and broadcast command identification numbers into the unit; (3) test the unit to ensure operation when installation has been completed on the vessel; and (4) forward the Inmarsat service provider and the transceiver identifying information to OLE.

II. Inmarsat-C Communications Providers

It is recommended, for vendor warranty and customer service purposes, that the vessel owner keep for his or her records and that Telenor and Xantic have on record the following identifying information: (1) Signed and dated receipts and contracts; (2) transceiver serial number; 3) Telenor or Xantic customer number, user name and password; (4) e-mail address of transceiver; (5) Inmarsat identification number; (6) owner name; (7) vessel name; (8) vessel documentation or registration number; and (9) mobile earth station license (FCC license).

The OLE will provide an installation and activation checklist that the vessel owner must follow. The vessel owner must sign a statement on the checklist certifying compliance with the installation procedures and return the checklist to OLE. Installation can be performed by experienced crew or by an electronics specialist, and the installation cost is paid by the owner.

The owner may confirm the TT–3026D operation and communications service to ensure that position reports are automatically sent to and received by OLE before leaving on a trip under VMS. The OLE does not regard the vessel as meeting requirements until position reports are automatically received. For confirmation purposes, contact the NOAA Fisheries Office for Law Enforcement, 8484 Georgia Ave, Suite 415, Silver Spring, MD 20910, phone 888–219–9228, fax 301–427–0049.

Telenor Satellite Services

Inmarsat-C is a store-and-forward data messaging service. Inmarsat-C allows users to send and receive information virtually anywhere in the world, on land, at sea, and in the air. Inmarsat-C supports a wide variety of applications including Internet, e-mail, position and weather reporting, a free daily news service, and remote equipment monitoring and control. Mariners can use Inmarsat-C free of charge to send critical safety at sea messages as part of the U.S. Coast Guard's Automated Mutual-Assistance Vessel Rescue system and of the NOAA Shipboard Environmental Acquisition System programs. Telenor Vessel Monitoring System Services is being sold through Thrane & Thrane, Inc. For the Thrane & Thrane and Telenor addresses, look inside this notice under the heading "VMS Provider Address".

Xantic

Xantic is a provider Vessel Monitoring Services to the maritime industry. By installing an approved OLE Inmarsat-C transceiver on the vessel, vessels can send and receive e-mail, to and from land, while the transceiver automatically sends vessel position reports to OLE, and is fully compliant with the International Coast Guard Search and Rescue Centers. Xantic Vessel Monitoring System Services are being sold through Thrane & Thrane, Inc. For the Thrane & Thrane and Xantic addresses, look in this notice under the heading "VMS Provider Address".

For Telenor and Xantic, Thrane & Thrane customer service supports the security and privacy of vessel accounts and messages with the following: (a) password authentication for vessel owners or agents and for OLE to prevent unauthorized changes or inquiries; and (b) separation of private messages from OLE messages. (OLE requires VMS-related position reports, only.)

Billing is separated between accounts for the vessel owner and the OLE. VMS position reports and vessel-initiated messaging are paid for by the vessel owner. Messaging initiated from OLE operations center is paid for by NOAA.

Thrane & Thrane provides customer service for Telenor and Xantic users to support and establish two-way transmission of transceiver unit configuration commands between the transceiver and land-based control centers. This supports OLE's message needs and, optionally, the crew's private message needs.

The vessel owner can configure automatic position reports to be sent to a private address, such as to a fleet management company.

Vessel owners wishing to use Telenor or Xantic services will need to purchase an Inmarsat-C transceiver approved for vessels issued permits to operate in the Northwestern Hawaiian Islands Marine National Monument. The owner will need to complete an Inmarsat-C system use contract with Telenor or Xantic, including a mobile earth station license (FCC requirement). The transceiver will need to be commissioned with Inmarsat according to Telenor or Xantic's instructions. The owner should refer to and follow the configuration, installation, and service activation procedures for the specific transceiver purchased.

III. VMS Provider Address

For TT–3026D, Telenor, or Xantic information contact Ronald Lockerby, Marine Products, Thrane & Thrane , Inc., 509 Viking Drive, Suite K, L & M, Virginia Beach, VA 23452; voice: 757–463–9557; fax: 757–463–9581, e-mail: *rdl@tt.dk.com*; website: *http://www.landseasystems.com.*

Dated: July 11, 2006.

William T. Hogarth,

Assistant Administrator for Fisheries, National Marine Fisheries Service.

[FR Doc. 06–6253 Filed 7–12–06; 1:01 pm]

BILLING CODE 3510–22–S

COMMODITY FUTURES TRADING COMMISSION

Boards of Trade Located Outside of the United States and the Requirement To Become a Designated Contract Market or Derivatives Transaction Execution Facility

AGENCY: Commodity Futures Trading Commission.

ACTION: Extension of comment period.

SUMMARY: The Commodity Futures Trading Commission (Commission) published on June 13, 2006, a request

for comment [1] in advance of a public hearing scheduled for June 27, 2006.[2] The purpose of the request for comment and the hearing was to solicit the views of the public on how to identify and address certain issues with respect to boards of trade established in foreign countries and located outside the U.S. (foreign board of trade or FBOT). Specifically, the Commission announced that it wished to address the point at which an FBOT that makes its products available for trading in the U.S. by permitting direct access to its electronic trading system from the U.S. (direct access) is no longer "located outside the U.S." for purposes of Section 4(a) of the Commodity Exchange Act (Act). Comments on the subject were originally due on July 12, 2006.

Subsequent to the public hearing, interested parties have requested that the comment period be extended, either because of the complexity of the issues set forth in the request for comment or in order to address and/or respond to issues raised during the course of the hearing. The Commission recognizes the complexity of the issues and the diversity of interests in this matter and is, accordingly, extending the comment period to August 1, 2006. Potential commenters who intend to address comments made during the course of the public hearing should note that the transcript of the hearing has been posted on the Commission's Web site, *www.cftc.gov*, in Comment File Number: 06–002.

DATES: Comments must be received on or before August 1, 2006.

ADDRESSES: Comments should be sent to the Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street, NW., Washington, DC 20581, attention: Office of the Secretariat. Comments may be sent by facsimile transmission to 202–418–5521 or, by e-mail to *secretary@cftc.gov*. Reference should be made to "What Constitutes a Board of Trade Located Outside of the United States." Comments may also be submitted to the Federal eRulemaking Portal: *http://www.regulations.gov*.

FOR FURTHER INFORMATION CONTACT: David P. Van Wagner, Chief Counsel, (202) 418–5481, e-mail *dvanwagner@cftc.gov*; or Duane C. Andresen, Special Counsel, (202) 418–5492, e-mail *dandresen@cftc.gov*; Division of Market Oversight, Commodity Futures Trading Commission, Three Lafayette Center, 1155 21st Street, NW., Washington, DC 20581.

Issued in Washington, DC on July 10, 2006 by the Commission.

Eileen A. Donovan,

Acting Secretary of the Commission.

[FR Doc. E6–11120 Filed 7–13–06; 8:45 am]

BILLING CODE 6351–01–P

[1] 71 FR 34070 (June 13, 2006).

[2] *See* Sunshine Act Meeting Notice, 71 FR 30665 (May 30, 2006); corrected as 71 FR 32059 (June 2, 2006).

COMMODITY FUTURES TRADING COMMISSION

Sunshine Act Notice; Agricultural Advisory Committee Meeting

The Commodity Futures Trading Commission's Agricultural Advisory Committee will conduct a public meeting on Tuesday, August 1, 2006. The meeting will take place in the first floor hearing room of the Commission's Washington, DC headquarters, Three Lafayette Centre, 1155 21st Street, NW., Washington, DC 20581 from 9:30 a.m. to 4:30 p.m. The agenda will cover discussion of commitment of trader reports and economic and market implications of thinly traded price discovery markets.

The meeting is open to the public. Any member of the public who wishes to file a written statement with the Advisory Committee should mail a copy of the statement to the attention of: Agricultural Advisory Committee, c/o Chairman, Michael Dunn, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street, NW., Washington, DC 20581, before the meeting. Members of the public who wish to make oral statements should inform Chairman Dunn in writing at the foregoing address at least three business days before the meeting. Reasonable provision will be made, if time permits, for oral presentations of no more than five minutes each in duration.

For further information concerning this meeting, please contact Nicole McNair at (202) 418–5070.

Issued by the Commission in Washington, DC on July 12, 2006.

Eileen A. Donovan,

Acting Secretary of the Commission.

[FR Doc. 06–6259 Filed 7–13–06; 8:45am]

BILLING CODE 6351–01–M

DEPARTMENT OF EDUCATION

Submission for OMB Review; Comment Request

AGENCY: Department of Education.

SUMMARY: The Leader, Information Policy and Standards Team, Regulatory Information Management Services, Office of Management 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 August 14, 2006.

ADDRESSES: Written comments should be addressed to the Office of Information and Regulatory Affairs, Attention: Rachel Potter, Desk Officer, Department of Education, Office of Management and Budget, 725 17th Street, NW., Room 10222, New Executive Office Building, Washington, DC 20503 of 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, Information Policy and Standards Team, Regulatory Information Management Services, Office of Management, publishes that notice containing proposed information collection requests prior to submission of these requests to OMB. Each proposed information collection, grouped by office, contains the following: (1) Type of review requested, e.g. new, revision, extension, existing or reinstatement; (2) Tilte; (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: July 10, 2006.

Leo J. Eiden,

Leader, Information Policy and Standards Team, Regulatory Information Management Services, Office of Management.

Office of Postsecondary Education

Type of Review: Reinstatement.

Title: Application for the Upward Bound and Upward Bound Math and Science Centers Program.

Frequency: Annually.

Affected Public: Not-for-profit institutions; businesses or other for-profit; State, Local, or Tribal Gov't, SEAs or LEAs.

Reporting and Recordkeeping Hour Burden:

Responses: 1,750.

Burden Hours: 14,875.

Abstract: The application form is needed to conduct a national competition for Fiscal Year 2007 for the Upward Bound and Upward Bound Math and Science Centers. These programs provide federal financial assistance in the form of grants to institutions of higher education, public and private agencies and organizations, combinations of institutions and agencies and in exceptional cases, secondary schools to establish and operate projects designed to generate skills and motivation necessary for success in education beyond secondary school. The Upward Bound Math and Science Centers provide an intensive six-seek summer math-science curriculum program.

This information collection is being submitted under the Streamlined Clearance Process for Discretionary Grant Information Collections (1890–0001). Therefore, the 30-day public comment period notice will be the only public comment notice published for this information collection.

Requests for copies of the information collection submission for OMB review may be accessed from *http://edicsweb.ed.gov,* by selecting the "Browse Pending Collections" link and by clicking on link number 3152. When you access the information collection, click on "Download Attachments" to view. Written requests for information shold be addressed to U.S. Department of Education, 400 Maryland Avenue, SW., Potomac Center, 9th Floor, Washington, DC 20202–4700. Requests may also be electronically mailed to *ICDocketMgr@ed.gov* or faxed to 202–245–6623. Please specify the complete title of the information collection when making your request.

Comments regarding burden and/or the collection activity requirements should be electronically mailed to *ICDocketMgr@ed.gov.* Individuals who use a telecommunication device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339.

[FR Doc. 06–6242 Filed 7–13–06; 8:45am]

BILLING CODE 4000–01–M

DEPARTMENT OF ENERGY

Environmental Management Advisory Board Meeting

AGENCY: Department of Energy.

ACTION: Notice of open meeting.

SUMMARY: This notice announces a meeting of the Environmental Management Advisory Board (EMAB). The Federal Advisory Committee Act (Pub. L. 92–463, 86 Stat. 770) requires that public notice of this meeting be announced in the **Federal Register.**

DATES: Wednesday, August 23, 2006, 9 a.m.–5 p.m. Thursday, August 24, 2006, 9 a.m.–12 p.m.

ADDRESSES: The Courtyard by Marriott, 480 Columbia Point Drive, Richland, Washington 99352.

FOR FURTHER INFORMATION CONTACT: Terri Lamb, Executive Director of the Environmental Management Advisory Board (EM–13), U.S. Department of Energy, 1000 Independence Avenue, SW., Washington, DC 20585. Phone (202) 586–9007; fax (202) 586–0293 or e-mail: *terri.lamb@em.doe.gov.*

SUPPLEMENTARY INFORMATION: *Purpose of the Board:* The purpose of the Board is to provide the Assistant Secretary for Environmental Management with advice and recommendations on corporate issues confronting the Environmental Management Program. The Board will contribute to the effective operation of the Environmental Management Program by providing individual citizens and representatives of interested groups an opportunity to present their views on issues facing the Office of Environmental Management and by helping to secure consensus recommendations on those issues.

Tentative Agenda

Wednesday, August 23, 2006

9 a.m. Welcome.
9:15 a.m. Opening Remarks.
9:45 a.m. EM Program Update.
10:15 a.m. Break.
10:30 a.m. Acquisition and Project Management Presentation.
11 a.m. Roundtable Discussion.
11:45 a.m. Public Comment Period.
12 p.m. Lunch Break.
1 p.m. Regulatory Compliance Presentation.
1:30 p.m. Roundtable Discussion.
2:15 p.m. Public Comment Period.
2:30 p.m. Break.
2:45 p.m. EM Human Capital Initiatives and Re-Organization Update.
3:30 p.m. Roundtable Discussion.
4:15 p.m. Public Comment Period.
5 p.m. Adjournment.

Thursday, August 24, 2006

9 a.m. Opening Remarks.
9:05 a.m. Hanford Advisory Board Presentation.
9:20 a.m. Board Business.
- Approval of March Meeting Minutes.
- Action Items Report Back/Status.
- New Business.
- Roundtable Discussion.
- Set Date for Next Meeting.

11:30 a.m. Public Comment Period.
12 p.m. Adjournment.

Public Participation: The meeting is open to the public. Written statements may be filed with the Board either before or after the meeting. Individuals who wish to make oral statements pertaining to agenda items should contact Terri Lamb at the address or telephone number above. Requests must be received five days prior to the meeting and reasonable provision will be made to include the presentation in the agenda. Those who call in and register in advance will be given the opportunity to speak first. Others will be accommodated as time permits. The Board Chair is empowered to conduct the meeting in a fashion that will facilitate the orderly conduct of business. Individuals wishing to make public comment will be provided a maximum of five minutes to present their comments.

Minutes: The minutes of the meeting will be available at *http://web.em.doe.gov/emab/boardmeet.html* and for viewing and copying at the U.S. Department of Energy Freedom of Information Public Reading Room, 1E–190, Forrestal Building, 1000 Independence Avenue, SW., Washington, DC 20585 between 9 a.m. and 4 p.m., Monday–Friday except Federal holidays. Minutes will also be available by calling Terri Lamb at (202) 586–9007.

Issued at Washington, DC on July 10, 2006.

James N. Solit,

Advisory Committee Management Officer.

[FR Doc. E6–11104 Filed 7–13–06; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP00–445–012]

Alliance Pipeline L.P.; Notice of Negotiated Rates

July 7, 2006.

Take notice that on July 5, 2006, Alliance Pipeline L.P. (Alliance) tendered for filing to become part of its FERC Gas Tariff, Original Volume No. 1, Seventh Revised Sheet No. 11, to become effective July 1, 2006.

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 in accordance with the provisions of Section 154.210 of the Commission's regulations (18 CFR 154.210). 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 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. E6–11184 Filed 7–13–06; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP06–383–001]

Alliance Pipeline L.P.; Notice of Compliance Filing

July 7, 2006.

Take notice that on July 5, 2000, Alliance Pipeline L.P. (Alliance) tendered for filing as part of Alliance's FERC Gas Tariff, Original Volume No. 1, Original Sheet No. 277D, proposed to be effective June 22, 2006.

Alliance states that copies of its filing have been mailed to all customers, state commissions, and other interested parties.

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 in accordance with the provisions of Section 154.210 of the Commission's regulations (18 CFR 154.210). 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 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. E6–11186 Filed 7–13–06; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP00–305–029]

CenterPoint Energy—Mississippi River Transmission Corporation; Notice of Negotiated Rate Filing

July 6, 2006.

Take notice that on June 30, 2006, CenterPoint Energy—Mississippi River Transmission Corporation (MRT) tendered for filing and approval amended negotiated rate agreements between MRT and Central Illinois Public Service Company, d/b/a Ameren CIPS, for service under Rate Schedules FTS and FSS.

MRT also tendered for filing as part of its FERC Gas Tariff, Third Revised Volume No. 1, Third Revised Sheet No. 256. MRT requests that the Commission accept and approve the agreements and revised tariff sheet to be effective July 1, 2006.

Any person desiring to intervene or to protest this filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 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 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.

Magalie R. Salas,

Secretary.

[FR Doc. E6–11170 Filed 7–13–06; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP06–413–000]

Columbia Gulf Transmission Company; Tennessee Gas Pipeline Company; Notice of Application

July 7, 2006.

Take notice that on July 3, 2006, Columbia Gulf Transmission Co. (Columbia Gulf) and Tennessee Gas Pipeline Company (Tennessee) filed with the Commission an application

pursuant to sections 7(b) and 7(c) of the Natural Gas Act (NGA) requesting that the Commission issue an order authorizing (i) the abandonment of capacity entitlements held by Dynegy Marketing and Trade ("DMT") in the South Pass 77 System extending from South Pass Block 77 offshore Louisiana to Tennessee's system in Plaquemines Parish, Louisiana (South Pass 77 System), as derived from the ownership interests of Columbia Gulf; and (ii) the assignment of said capacity entitlements to Tennessee, all as more fully set forth in the application which is on file with the Commission and open to public inspection. The filing may also be viewed on the web at *http://www.ferc.gov* using the "eLibrary" link. Enter the docket number excluding the last three digits in the docket number field to access the document. For assistance, contact FERC at *FERCOnlineSupport@gerc.gov* or call toll-free, (886) 208–3676 or TYY, (202) 502–8659.

Any questions concerning this application may be directed to Sarah Dietrich, Senior Attorney, NiSource Corp. Services Company, 2603 Augusta, Suite 300, Houston, TX 77057, call (713) 267–4751, fax (713) 267–4755 or Kevin Erwin, Tennessee Gas Pipeline Company, 1001 Louisiana, Houston, TX 77001, call (713) 420–1212, fax (713) 420–1601.

There are two ways to become involved in the Commission's review of this project. First, any person wishing to obtain legal status by becoming a party to the proceedings for this project should, on or before the comment date stated below file with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, a motion to intervene in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the NGA (18 CFR 157.10). A person obtaining party status will be placed on the service list maintained by the Secretary of the Commission and will receive copies of all documents filed by the applicant and by all other parties. A party must submit 14 copies of filings made in the proceeding with the Commission and must mail a copy to the applicant and to every other party. Only parties to the proceeding can ask for court review of Commission orders in the proceeding.

However, a person does not have to intervene in order to have comments considered. The second way to participate is by filing with the Secretary of the Commission, as soon as possible, an original and two copies of comments in support of or in opposition to this project. The Commission will consider these comments in determining the appropriate action to be taken, but the filing of a comment alone will not serve to make the filer a party to the proceeding. The Commission's rules require that persons filing comments in opposition to the project provide copies of their protests only to the party or parties directly involved in the protest.

Protests and interventions may be filed electronically via the Internet in lieu of paper; see, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site under the "e-Filing" link. The Commission strongly encourages electronic filings.

Comment Date: 5 p.m. Eastern Time on July 14, 2006.

Magalie R. Salas,

Secretary.

[FR Doc. E6–11178 Filed 7–13–06; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP00–632–021]

Dominion Transmission, Inc.; Notice of Fuel Report

July 7, 2006.

Take notice that on June 30, 2006, Dominion Transmission, Inc. (DTI) tendered for filing its informational fuel report. DTI states that the fuel report details DTI's System Gas Requirements and gas retained or otherwise obtained for the twelve-month period ending March 31, 2006.

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 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.

Protest Date: 5 p.m. Eastern Time on July 14, 2006.

Magalie R. Salas,

Secretary.

[FR Doc. E6–11185 Filed 7–13–06; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP06–400–001]

Eastern Shore Natural Gas Company; Notice of Filing

July 6, 2006.

Take notice that on June 29, 2006, Eastern Shore Natural Gas Company (Eastern Shore) tendered for filing as part of its FERC Gas Tariff, Second Revised Volume No. 1, Second Revised Sheet No. 10 and First Revised Sheet No. 11, with an effective date of July 23, 2006.

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 in accordance with the provisions of Section 154.210 of the Commission's regulations (18 CFR 154.210). 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 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. E6–11173 Filed 7–13–06; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. PR06–17–000]

Enogex Inc.; Notice of Petition for Rate Approval

July 7, 2006.

Take notice that on June 30, 2006, Enogex Inc. (Enogex) submitted for filing revised zonal fuel percentages for the East and West Zones on the Enogex System to be effective for the period August 1, 2006 to December 31, 2006. Specifically, Enogex seeks to lower the fuel percentage for the East Zone from 0.96% to 0.43% and to increase the fuel percentage for the West Zone from 0.11% to 0.26%, effective August 1, 2006.

Any person desiring to participate in this rate proceeding must file a motion 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 on or before the date as indicated below. 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.

Comment Date: 5 p.m. Eastern Time on July 21, 2006.

Magalie R. Salas,

Secretary.

[FR Doc. E6–11183 Filed 7–13–06; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP05–164–006]

Equitrans, L.P.; Notice of Compliance Filing

July 6, 2006.

Take notice that on June 30, 2006, Equitrans, L.P. tendered for filing as part of its FERC Gas Tariff, Original Volume No. 1, the revised tariff sheets listed on Appendix A to the filing, proposed to become effective in accordance with the dates provided for in the settlement.

Any person desiring to protest this filing must file in accordance with Rule 211 of the Commission's Rules of Practice and Procedure (18 CFR 385.211). Protests to this filing will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Such protests must be filed in accordance with the provisions of Section 154.210 of the Commission's regulations (18 CFR 154.210). 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 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. E6–11172 Filed 7–13–06; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP99–518–092]

Gas Transmission Northwest Corporation; Notice of Negotiated Rate

July 6, 2006.

Take notice that on June 30, 2006, Gas Transmission Northwest Corporation (GTN) tendered for filing as part of its FERC Gas Tariff, Third Revised Volume No. 1–A, Thirty-Fifth Revised Sheet No. 15, to become effective July 1, 2006.

GTN states that this sheet is being filed to update GTN's reporting of negotiated rate transactions that it has entered into.

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. E6–11165 Filed 7–13–06; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket Nos. EG06–40–000, EG06–42–000, EG06–43–000, EG06–44–000, EG06–45–000, EG06–47–000, EG06–48–000, EG06–49–000, FC06–3–000]

Indeck Energy Services of Silver Springs, Inc.; FPL Energy Burleigh County Wind, LLC; Wind Capital Holdings, LLC; Cow Branch Wind Energy, LLC; Spindle Hill Energy LLC; MMC Chula Vista LLC; MMC Escondido LLC; Astoria Generating Company, L.P.; Invenergy Wind Europe LLC EEZ Sp. z o.o.; Notice of Effectiveness of Exempt Wholesale Generator or Foreign Utility Company Status

July 6, 2006.

Take notice that during the month of June 2006, the status of the above-captioned entities as Exempt Wholesale Generators or Foreign Utility Companies became effective by operation of the Commission's regulations. 18 CFR 366.7(a).

Magalie R. Salas,

Secretary.

[FR Doc. E6–11166 Filed 7–13–06; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP97–81–026]

Kinder Morgan Interstate Gas Transmission LLC; Notice of Negotiated Rate

July 6, 2006.

Take notice that on June 30, 2006, Kinder Morgan Interstate Gas Transmission LLC (KMIGT) tendered for filing as part of its FERC Gas Tariff, Fourth Revised Volume No. 1–A, the following tariff sheets, to be effective July 1, 2006:

Sixth Revised Sheet No. 4G.01.
Third Revised Sheet No. 4K.
Original Sheet No. 4K.01.
Original Sheet No. 4K.02.
Fifth Revised Sheet No. 4L.

KMIGT states that a copy of this filing has been served upon all parties to this proceeding, KMIGT's customers and affected state 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. E6–11175 Filed 7–13–06; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP06–426–000]

MIGC, Inc.; Notice of Tariff Filing

July 7, 2006.

Take notice that on July 3, 2006, MIGC, Inc. (MIGC) tendered for filing as part of its FERC Gas Tariff, First Revised Volume No.1, Eleventh Revised Sheet No. 6, to become effective August 1, 2006.

MIGC asserts that the instant tariff sheet is being submitted in compliance with section 25 of MIGC's FERC Gas Tariff, First Revised Volume No. 1, which provides for MIGC to file revised fuel retention and loss percentage factors (FL&U factors) each year.

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 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.

Magalie R. Salas,

Secretary.

[FR Doc. E6–11187 Filed 7–13–06; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket Nos. CP06–407–000, CP06–408–000 and CP06–409–000]

Missouri Interstate Gas, LLC; Missouri Gas Company, LLC; Missouri Pipeline Company, LLC; Notice of Applications for Certificates of Public Convenience and Necessity and Abandonment Authorizations

July 6, 2006.

Take notice that on June 28, 2006, Missouri Interstate Gas, LLC (Missouri Interstate), Missouri Gas Company, LLC (Missouri Gas), and Missouri Pipeline Company, LLC (Missouri Pipeline), each located at 110 Algana Court, St. Peters, Missouri, 63376, filed in the above referenced dockets, pursuant to section 7 of the Natural Gas Act (NGA) and Part 157 of the Commission's regulations, several applications for certificates of public convenience and necessity and abandonment authorizations. The applications seek approval to consolidate certain facilities owned by the affiliated companies in order to form a new interstate pipeline to be owned by Missouri Gas, which would be subject to the jurisdiction of the Commission.

These filings are on file with Commission and open to public inspection. They may be viewed on the web at *http://www.ferc.gov* using the "eLibrary" link. Enter the docket number excluding the last three digits in the docket number field to access the document. There is also 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, please contact FERC Online Support at *FERCOnlineSupport@ferc.gov* or toll free at (866) 208–3676, or TTY, contact (202) 502–8659.

Any questions regarding the applications should be directed to David J. Ries, President, Missouri Interstate Gas, LLC, 110 Algana Court, St. Peters, Missouri, 63376; Phone (636) 926–3668.

Docket No. CP06–407–000 is assigned to the requests to authorize facilities acquisition and operation, for approval for the provision of interstate natural gas transportation services and for the approval of abandonments. Docket No. CP06–408–000 is assigned to the part 157, subpart F blanket certificate request and Docket No. CP06–409–000 is assigned to the part 284, subpart G blanket certificate request.

The Applicants state that upon implementation of the mergers, if approved under the requested authorizations, their proposal will expand access to the interstate gas transportation grid for the Applicants' customers on standardized terms and conditions, make such grid more efficient, offer better supply and pricing options, facilitate future pipeline expansions within and outside the State of Missouri, and establish a single regulatory forum at the Commission to review any expansions and new services proposed in the future and to set a single rate for service on the new system.

The Applicants state that their proposed acquisition of the facilities and the integration of the Applicants' assets into a single interstate pipeline system will allow the Applicants to provide open access, non-discriminatory transportation consistent with the NGA and the Commission's regulations and policies. As an integrated interstate company, the Applicants say that the proposed Missouri Gas will be better able to serve Missouri and Illinois customers and respond to interstate demand, particularly in Illinois. In addition, the Applicants say that consolidation of the companies will eliminate inefficiencies, enabling Missouri Gas to improve service to existing and potential new customers.

Specifically, the Applicants seek the Commission's authorization for: (1) Missouri Interstate to abandon its tariff and services and to abandon its facilities by transfer to Missouri Pipeline; (2) Missouri Pipeline to acquire and operate as part of its existing system, all of Missouri Interstate's facilities; and (3) Missouri Pipeline to subsequently abandon by transfer, and Missouri Gas to acquire and operate as part of its existing system, all of the facilities of Missouri Pipeline, upon Missouri Pipeline's commencement of interstate service.

In addition, Applicants request: (1) Issuance of a blanket certificate of public convenience and necessity under part 284, subpart G of the Commission's regulations to Missouri Gas, authorizing it to provide open access interstate transportation services to the Applicants' existing transportation customers and to potential new customers located inside and outside the State of Missouri, and a determination that Missouri Gas's proposed initial firm and interruptible rates are in the public interest; (2) issuance of a blanket certificate of public convenience and necessity under part 157, subpart F of the Commission's regulations to Missouri Gas authorizing certain routine construction and operation activities and abandonment; and (3) approval of the initial rates and pro forma tariff proposed herein along with acceptance of Applicants' existing service agreements as non-conforming service agreements.

The Applicants state that as a result of these transactions, all of the facilities currently owned and operated individually by Missouri Interstate and Missouri Pipeline prior to the transactions will be owned and operated by Missouri Gas. They promise that no later than 18 months after the integrated Missouri Gas commences operations pursuant to the Commission issued certificates proposed in these proceedings, Missouri Gas will file a rate case to establish just and reasonable rates under section 4 of the NGA to replace the initial rates requested for approval in these proceedings.

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 on or before the comment date. Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicants. On or before the comment date, it is not necessary to serve motions to intervene or protests on persons other than the Applicants.

The Commission encourages electronic submission of protests and interventions in lieu of paper using the

"e-Filing" 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.

Comment Date: 5 p.m. Eastern Time on July 26, 2006.

Magalie R. Salas,

Secretary.

[FR Doc. E6–11176 Filed 7–13–06; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP01–382–016]

Northern Natural Gas Company; Notice of Filing of Reimbursement Report

July 6, 2006.

Take notice that on June 30, 2006, Northern Natural Gas Company (Northern) tendered for filing various schedules detailing the Carlton buyout and surcharge dollars reimbursed to the appropriate parties.

Northern further states that copies of the filing have been mailed to each of its customers and interested State Commissions.

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 e-mail notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please e-mail *FERCOnlineSupport@ferc.gov*, or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Comment Date: 5 p.m. Eastern Time on July 13, 2006.

Magalie R. Salas,

Secretary.

[FR Doc. E6–11171 Filed 7–13–06; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP04–413–004]

Rockies Express Pipeline, L.L.C.; Freebird Gas Storage, LLC. Notice of Application

July 7, 2006.

Take notice that on June 30, 2006, Rockies Express Pipeline LLC (Rockies Express), P.O. Box 281304, Lakewood, Colorado 80228–8304, filed with the Commission an application in Docket No. CP06–413–000 pursuant to section 7(c) of the Natural Gas Act ("NGA") requesting an amendment of the certificate of public convenience and necessity issued in the above-referenced docket. Rockies Express request authority to amend the level of compression authorized by the Commission in its August 9, 2005 order, to install reduced compression at the Big Hole Compressor Station in Moffatt County, Colorado, all as more fully set forth in the application which is on file with the Commission and open to public inspection. This filing is 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 under the tab "Documents & Filing." Enter the docket number excluding the last three digits in the docket number field to access the document. For assistance, please contact FERC Online Support at *FERCOnlineSupport@ferc.gov* or toll free at (866) 208–3676, or for TTY, contact (202) 502–8659.

Any questions regarding this application should be directed to Skip George, Manager of Certificates, Rockies Express Pipeline LLC, P.O. Box 281304, Lakewood, Colorado 80228–8304, phone (303) 914–4969.

There are two ways to become involved in the Commission's review of this project. First, any person wishing to obtain legal status by becoming a party to the proceedings for this project should, on or before the comment date stated below file with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, a motion to intervene in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the NGA (18 CFR 157.10). A person obtaining party status will be placed on the service list maintained by the Secretary of the Commission and will receive copies of all documents filed by the applicant and by all other parties. A party must submit 14 copies of filings made in the proceeding with the Commission and must mail a copy to the applicant and to every other party. Only parties to the proceeding can ask for court review of Commission orders in the proceeding.

However, a person does not have to intervene in order to have comments considered. The second way to participate is by filing with the Secretary of the Commission, as soon as possible, an original and two copies of comments in support of or in opposition to this project. The Commission will consider these comments in determining the appropriate action to be taken, but the filing of a comment alone will not serve to make the filer a party to the proceeding. The Commission's rules require that persons filing comments in opposition to the project provide copies of their protests only to the party or parties directly involved in the protest.

Persons who wish to comment only on the environmental review of this project should submit an original and two copies of their comments to the Secretary of the Commission. Environmental commenters will be placed on the Commission's environmental mailing list, will receive copies of the environmental documents, and will be notified of meetings associated with the Commission's environmental review process. Environmental commenters will not be required to serve copies of filed documents on all other parties. However, the non-party commenters will not receive copies of all documents filed by other parties or issued by the Commission (except for the mailing of environmental documents issued by the Commission) and will not have the right to seek court review of the Commission's final order.

Protests and interventions may be filed electronically via the Internet in lieu of paper; see, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the "e-Filing" link. The Commission strongly encourages electronic filings.

Comment Date: 5 p.m. Eastern Time on July 28, 2006.

Magalie R. Salas,

Secretary.

[FR Doc. E6–11189 Filed 7–13–06; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP06–425–000]

Transcontinental Gas Pipe Line Corporation; Notice of Refund Report

July 6, 2006.

Take notice that, on June 30, 2006, Transcontinental Gas Pipe Line Corporation (Transco) tendered for filing, pursuant to section 3.4 of Transco's Rate Schedule PAL and section 7 of Transco's Rate Schedule ICTS, a Report of Refund detailing PAL and ICTS revenue sharing refunds totaling $415,136.69 of principal and interest paid on June 21, 2006. Transco states that the refund report is for the annual period May 1, 2005 through April 30, 2006.

Any person desiring to intervene or to protest this filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 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 on or before the date as indicated below. 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.

Comment Date: 5 p.m. Eastern Time on July 13, 2006.

Magalie R. Salas,

Secretary.

[FR Doc. E6–11174 Filed 7–13–06; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP06–415–000]

LLC. Trunkline Gas Company, LLC; Notice of Application

July 7, 2006.

Take notice that on July 3, 2006, Trunkline Gas Company, LLC (Trunkline), 5444 Westheimer Road, Houston, Texas 77056, filed with the Commission an application pursuant to section 7(b) of the Natural Gas Act, requesting the issuance of an order permitting and approving the abandonment, by removal and transfer, of two existing 3,000 horsepower compressor units located at Trunkline's existing Centerville Compressor Station in St. Mary Parish, Louisiana. Trunkline states that it will relocate the two compressor units to its Kaplan Station in Vermilion Parish, Louisiana. This filing is available for review at the Commission in the Public Reference Room or may be viewed on the Commission's Web site web at *http://www.ferc.gov* using the "eLibrary" link. Enter the docket number excluding the last three digits in the docket number field to access the document. For assistance, contact FERC at *FERCOnlineSupport@gerc.gov* or call toll-free, (886) 208–3676 or TYY, (202) 502–8659.

Any questions regarding the application may be directed to Mr. Stephen T. Veatch, Senior Director, Certificates and Tariffs, 5444 Westheimer Road, Houston, Texas, 77056, phone (713) 989–2024.

There are two ways to become involved in the Commission's review of this project. First, any person wishing to obtain legal status by becoming a party to the proceedings for this project should, on or before the comment date stated below file with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, a motion to intervene in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the NGA (18 CFR 157.10). A person obtaining party status will be placed on the service list maintained by the Secretary of the Commission and will receive copies of all documents filed by the applicant and by all other parties. A party must submit 14 copies of filings made in the proceeding with the Commission and must mail a copy to the applicant and to every other party. Only parties to the proceeding can ask for court review of Commission orders in the proceeding.

However, a person does not have to intervene in order to have comments considered. The second way to participate is by filing with the Secretary of the Commission, as soon as possible, an original and two copies of comments in support of or in opposition to this project. The Commission will consider these comments in determining the appropriate action to be taken, but the filing of a comment alone will not serve to make the filer a party to the proceeding. The Commission's rules require that persons filing comments in opposition to the project provide copies of their protests only to the party or parties directly involved in the protest.

Persons who wish to comment only on the environmental review of this project should submit an original and two copies of their comments to the Secretary of the Commission. Environmental commenters will be placed on the Commission's environmental mailing list, will receive copies of the environmental documents, and will be notified of meetings associated with the Commission's environmental review process. Environmental commenters will not be required to serve copies of filed documents on all other parties. However, the non-party commenters will not receive copies of all documents filed by other parties or issued by the Commission (except for the mailing of environmental documents issued by the Commission) and will not have the right to seek court review of the Commission's final order.

Protests and interventions may be filed electronically via the Internet in lieu of paper; see, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site under the "e-Filing" link. The Commission strongly encourages electronic filings..

Comment Date: 5 p.m. Eastern Time on July 28, 2006.

Magalie R. Salas,

Secretary.

[FR Doc. E6–11179 Filed 7–13–06; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP06–427–000]

Williston Basin Interstate Pipeline Company; Notice of Tariff Filing

July 7, 2006.

Take notice that on July 5, 2006, Williston Basin Interstate Pipeline Company (Williston Basin) tendered for filing as part of its FERC Gas Tariff, Second Revised Volume No. 1, the following tariff sheets, to become effective August 4, 2006:

Second Revised Sheet No. 504
Second Revised Sheet No. 530
Second Revised Sheet No. 604
Third Revised Sheet No. 628
Third Revised Sheet No. 629
Third Revised Sheet No. 653
Second Revised Sheet No. 686
Original Sheet No. 686A
Third Revised Sheet No. 727
Fifth Revised Sheet No. 738

Williston Basin states that this filing seeks to revise Williston Basin's Form of Service Agreements to clarify that a specific date or triggering event may be used as the date when service begins under the agreement. Further, if a triggering event is used as the Effective Date, the Termination Date of the agreement may be based on a specific length of time starting at the Effective Date.

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. E6–11177 Filed 7–13–06; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 199–205]

South Carolina Public Service Authority; Notice of Intent To Prepare an Environmental Impact Statement

July 7, 2006.

On March 15, 2004, the South Carolina Public Service Authority (Public Service) filed an application for a new license for the continued operation of the 134.52-megawatt Santee Cooper Hydroelectric Project (FERC No. 199–205). The project is located on the Santee and Cooper Rivers in Berkeley, Calhoun, Clarendon, Orangeburg, and Sumter Counties, South Carolina. The project does not occupy any Federal lands.

In accordance with the National Environmental Policy Act (NEPA) and the Commission's regulations, Commission staff held public scoping meetings for the Santee Cooper Hydroelectric Project on May 17, 2005, in Moncks Corner, South Carolina, and on May 18, 2005, in Manning, South Carolina. Additionally, Commission staff held an agency scoping meeting on May 19, 2005, in Moncks Corner, South Carolina. Commission staff, state, Federal, and local agencies, and the public participated in the meetings. These scoping meetings were used to define the issues and alternatives addressed in Public Service's application.

Based on comments received, since the scoping meeting, Commission staff has determined that licensing the Santee Cooper Hydroelectric Project could constitute a major federal action significantly affecting the quality of the human environment. Therefore, staff intends to prepare an Environmental Impact Statement (EIS) for the project.

The staff's EIS will objectively consider both site-specific and cumulative environmental impacts of the project and reasonable alternatives, and will include economic and engineering analyses.

A draft EIS will be issued and circulated for review by all interested parties. All comments filed on the draft EIS will be analyzed by the staff and considered in the final EIS. The staff's conclusions and recommendations will be available for the consideration of the Commission in reaching its final licensing decision.

This notice informs all interested individuals, organizations, and agencies with environmental expertise and concerns, that: (1) The Commission staff has decided to prepare an EIS; and (2) the scoping conducted on the Santee Cooper Hydroelectric Project by Commission staff and comments filed with the Commission on the application will be taken into account in the EIS.

Any questions regarding this notice may be directed to Monte Terhaar at (202) 502–6035, or via e-mail at *monte.terhaar@ferc.gov.*

Magalie R. Salas,

Secretary.

[FR Doc. E6–11181 Filed 7–13–06; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Application Ready for Environmental Analysis and Soliciting Comments, Recommendations, Terms and Conditions, and Prescriptions

July 6, 2006.

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection.

a. *Type of Application:* New Major License.

b. *Project No:* 11910–002.

c. *Date Filed:* August 31, 2004.

d. *Applicant:* Symbiotics, LLC.

e. *Name of Project:* Applegate Dam Hydroelectric Project.

f. *Location:* On the Applegate River, near the town of Medford, Jackson County, Oregon. The proposed project would be located at the existing Applegate dam and reservoir, which are owned and operated by the Department of the Army, Corps of Engineers. The proposed project boundary would include approximately 8.3 acres of U.S. lands.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791 (a)–825(r).

h. *Applicant Contact:* Brent L. Smith, Northwest Power Services, Inc. P.O. Box 535, Rigby, Idaho 83442, (208)745–0834.

i. *FERC Contact:* Tim Looney, 202–502–6096, *timothy.looney@ferc.gov.*

j. Deadline for filing comments, recommendations, terms and conditions, and prescriptions is 60 days from the issuance of this notice; reply comments are due 105 days from the issuance date of this notice.

All documents (original and eight copies) should be filed with: Magalie R. Salas, Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

The Commission's Rules of Practice require all intervenors filing documents with the Commission to serve a copy of that document on each person on the official service list for the project. Further, if an intervenor files comments or documents with the Commission relating to the merits of an issue that may affect the responsibilities of a particular resource agency, they must also serve a copy of the document on that resource agency.

Comments, recommendations, terms and conditions, and prescriptions may be filed electronically via the Internet in lieu of paper. The Commission strongly encourages electronic filings. See 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site (*http://www.ferc.gov*) under the "e-Filing" link.

k. This application has been accepted and is now ready for environmental analysis.

l. The Applicant proposes to utilize the existing Applegate Dam, Applegate Reservoir, outlet works, and spillway, owned and operated by the Department of the Army, Corps of Engineers. The Applicant proposes to construct a powerhouse with an installed capacity of 10 megawatts at the area downstream from the dam. The Applicant also proposes to construct a new 15-mile-long, 69-kilovolt overhead power transmission line to connect the powerhouse with a substation located at Ruch, Oregon. The average annual generation is estimated to be 44,300,000 kilowatt-hours.

m. A copy of the application is available for review at the Commission in the Public Reference Room or may be viewed on the Commission's Web site at *http://www.ferc.gov* using the "eLibrary" link. Enter the docket number excluding the last three digits in the docket number field to access the document. For assistance, contact FERC Online Support at *FERCOnlineSupport@ferc.gov* or toll-free at 1–866–208–3676, or for TTY, (202) 502–8659. A copy is also available for inspection and reproduction at the address in item h above.

You may also register online at *http://www.ferc.gov/docs-filing/esubscription.asp* to be notified via e-mail of new filings and issuances related to this or other pending projects. For assistance, contact FERC Online Support.

All filings must (1) bear in all capital letters the title "COMMENTS", "REPLY COMMENTS", "RECOMMENDATIONS," "TERMS AND CONDITIONS," or "PRESCRIPTIONS;" (2) set forth in the heading the name of the applicant and the project number of the application to which the filing responds; (3) furnish the name, address, and telephone number of the person submitting the filing; and (4) otherwise comply with the requirements of 18 CFR 385.2001 through 385.2005. All comments, recommendations, terms and conditions or prescriptions must set forth their evidentiary basis and otherwise comply with the requirements of 18 CFR 4.34(b). Agencies may obtain copies of the application directly from the applicant. Each filing must be accompanied by proof of service on all persons listed on the service list prepared by the Commission in this proceeding, in accordance with 18 CFR 4.34(b), and 385.2010.

You may also register online at *http://www.ferc.gov/docs-filing/esubscription.asp* to be notified via e-mail of new filings and issuances related to this or other pending projects. For assistance, contact FERC Online Support.

n. Public notice of the filing of the initial development application, which has already been given, established the due date for filing competing applications or notices of intent. Under the Commission's regulations, any competing development application must be filed in response to and in compliance with public notice of the initial development application. No competing applications or notices of intent may be filed in response to this notice.

o. Procedural schedule and final amendments: Revisions to the schedule will be made as appropriate. The schedule given in the April 10, 2006 Notice of Application Accepted for Filing is revised as follows:

Notice that application is ready for environmental analysis (EA): July 2006.

Notice of the availability of the EA: January 2007.

Ready for Commission's decision on the application: April 2007.

Magalie R. Salas,

Secretary.

[FR Doc. E6–11169 Filed 7–13–06; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. PR05–17–002]

Duke Energy Guadalupe Pipeline, Inc.; Notice of Staff Panel

July 7, 2006.

Take notice that the Commission will conduct a staff panel on Wednesday, July 26, 2006, at 10 a.m. Eastern Time, in a room to be designated at the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

The staff panel will give the parties an opportunity to raise all issues concerning whether Guadalupe's proposed base rates are fair and equitable, including not only issues concerning Guadalupe's proposed base rates but also issues concerning its proposed fuel retention percentage.

FERC conferences are accessible under section 508 of the Rehabilitation Act of 1973. For accessibility accommodations please send an e-mail to *accessibility@ferc.gov* or call toll free (866) 208–3372 (voice) or 202–208–1659 (TTY), or send a FAX to 202–208–2106 with the required accommodations.

All interested parties and staff are permitted to attend. For further information please contact Eric Winterbauer at (202) 502–8329 or e-mail *eric.winterbauer@ferc.gov.*

Magalie R. Salas,

Secretary.

[FR Doc. E6–11182 Filed 7–13–06; 8:45 am]

BILLING CODE 6717–01–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OAR–2003–0073; FRL–8197–3]

Agency Information Collection Activities; Proposed Collection; Comment Request; Distribution of Offsite Consequence Analysis Information Under Section 112(r)(7)(H) of the Clean Air Act (CAA). EPA ICR No. 1981.03, OMB Control No. 2050–0172

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (PRA) (44 U.S.C. 3501 *et seq.*), this document announces that EPA is planning to submit a request to renew an existing approved Information Collection Request (ICR) to the Office of Management and Budget (OMB). This ICR is scheduled to expire on December 31, 2006. Before submitting the ICR to OMB for review and approval, EPA is soliciting comments on specific aspects of the proposed information collection as described below.

DATES: Comments must be submitted on or before September 12, 2006.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–HQ–OAR–2003–0073, by one of the following methods:

- *http://www.regulations.gov:* Follow the on-line instructions for submitting comments.
- E-mail: *a-and-r-Docket@epa.gov.*
- Fax: (202) 566–1741.
- Mail: Air Docket, Environmental Protection Agency, Mailcode: 6102T, 1200 Pennsylvania Ave., NW., Washington, DC 20460.
- Hand Delivery: EPA Docket Center; Public Reading Room, Room B102; EPA West Building, 1301 Constitution Avenue, NW., Washington DC. Such deliveries are only accepted during the Docket's normal hours of operation, and special arrangements should be made for deliveries of boxed information.

Instructions: Direct your comments to Docket ID No. EPA–HQ–OAR–2003–0073. EPA's policy is that all comments received will be included in the public docket without change and may be made available online at *http://www.regulations.gov,* including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through www.regulations.gov or e-mail. The www.regulations.gov Web site is an "anonymous access" system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through www.regulations.gov your e-mail address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD–ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses. For additional information about EPA's public docket visit the EPA Docket Center homepage at *http://www.epa.gov/epahome/dockets.htm.*

FOR FURTHER INFORMATION CONTACT: Sicy Jacob, Office of Emergency Management, Regulation and Policy Development Division, 5104A, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460; telephone number: (202) 564–8019; fax number: (202) 564–2620; e-mail address: *jacob.sicy@epa.gov.*

SUPPLEMENTARY INFORMATION:

How Can I Access the Docket and/or Submit Comments?

EPA has established a public docket for this ICR under Docket ID No. EPA–HQ–OAR 2003–0073, which is available for online viewing at *http://www.regulations.gov,* or in person viewing at the Air Docket in the EPA Docket Center (EPA/DC), EPA West, Room B102, 1301 Constitution Ave., NW., Washington, DC. The EPA/DC Public Reading Room is open from 8 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Reading Room is 202–566–1744, and the telephone number for the Air Docket is 202–566–1742.

Use *http://www.regulations.gov* to obtain a copy of the draft collection of information, submit or view public comments, access the index listing of the contents of the docket, and to access those documents in the public docket that are available electronically. Once in the system, select "search," then key in the docket ID number identified in this document.

What Information Is EPA Particularly Interested in?

Pursuant to section 3506(c)(2)(A) of the PRA, EPA specifically solicits comments and information to enable it to:

(i) Evaluate whether the proposed collection of information is necessary for the

(ii) Proper performance of the functions of the Agency, including whether the

(iii) Information will have practical utility;

(iv) Evaluate the accuracy of the Agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(v) Enhance the quality, utility, and clarity of the information to be collected; and

(vi) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.*, permitting electronic submission of responses. In particular, EPA is requesting comments from very small businesses (those that employ less than 25) on examples of specific additional efforts that EPA could make to reduce the paperwork burden for very small businesses affected by this collection.

What Should I Consider When I Prepare My Comments for EPA?

You may find the following suggestions helpful for preparing your comments:

1. Explain your views as clearly as possible and provide specific examples.

2. Describe any assumptions that you used.

3. Provide copies of any technical information and/or data you used that support your views.

4. If you estimate potential burden or costs, explain how you arrived at the estimate that you provide.

5. Offer alternative ways to improve the collection activity.

6. Make sure to submit your comments by the deadline identified under **DATES.**

7. To ensure proper receipt by EPA, be sure to identify the docket ID number assigned to this action in the subject line on the first page of your response. You may also provide the name, date, and **Federal Register** citation.

What Information Collection Activity or ICR Does This Apply to?

Docket ID No. EPA–HQ–OAR–2003–0073

Affected entities: Entities potentially affected by this action are Entities potentially affected by this action are State and local agencies and members of the public.

Title: Entities potentially affected by this action are State and local agencies and members of the public.

ICR numbers: EPA ICR No. 1981.03, OMB Control No. 2050–0172.

ICR status: This ICR is currently scheduled to expire on December 31, 2006. An Agency may not conduct or sponsor, and a person is not required to respond to, a collection of information, unless it displays a currently valid OMB control number. The OMB control numbers for EPA's regulations in title 40 of the CFR, after appearing in the **Federal Register** when approved, are listed in 40 CFR part 9, are displayed either by publication in the **Federal Register** or by other appropriate means, such as on the related collection instrument or form, if applicable. The display of OMB control numbers in certain EPA regulations is consolidated in 40 CFR part 9.

Abstract: This ICR is the renewal of the ICR developed for the final rule, *Accidental Release Prevention Requirements; Risk Management Programs Under the Clean Air Act Section 112(r)(7); Distribution of Off-Site Consequence Analysis Information.* CAA section 112(r)(7) required EPA to promulgate reasonable regulations and appropriate guidance to provide for the prevention and detection of accidental releases and for responses to such releases. The regulations include requirements for submittal of a risk management plan (RMP) to EPA. The RMP includes information on offsite consequence analyses (OCA) as well as other elements of the risk management program.

On August 5, 1999, the President signed the Chemical Safety Information, Site Security, and Fuels Regulatory Relief Act (CSISSFRRA). The Act required the President to promulgate regulations on the distribution of OCA information (CAA section 112(r)(7)(H)(ii)). The President delegated to EPA and the Department of Justice (DOJ) the responsibility to promulgate regulations to govern the dissemination of OCA information to the public. The final rule was published on August 4, 2000 (65 FR 48108). The regulations imposed minimal requirements on the public, state and local agencies that request OCA data from EPA. The state and local agencies who decide to obtain OCA information must send a written request on their official letterhead to EPA certifying that they are covered persons under Public Law 106–40, and that they will use the information for official use only. EPA will then provide paper copies of OCA data to those agencies as requested. The rule authorizes and encourages state and local agencies to set up reading rooms. The local reading rooms would provide read-only access to OCA information for all the sources in the LEPC's jurisdiction and for any source where the vulnerable zone extends into the LEPC's jurisdiction.

Members of the public requesting to view OCA information at federal reading rooms would be required to sign in and self certify. If asking for OCA information from federal reading rooms for the facilities in the area where they live or work, they would be required to provide proof that they live or work in that area. Members of the public are required to give their names, telephone number, and the names of the facilities for which OCA information is being requested, when they contact the central office to schedule an appointment to view OCA information.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. The OMB control numbers for EPA's regulations are listed in 40 CFR part 9 and 48 CFR chapter 15.

The EPA would like to solicit comments to:

(i) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(ii) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(iii) Enhance the quality, utility, and clarity of the information to be collected; and

(iv) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.*, permitting electronic submission of responses.

Burden Statement: For this ICR period, EPA estimates a total of 3,270 hours (annually) for local agencies requesting OCA data from EPA and providing read-only access to the public. For the state agencies, the total annual burden for requesting OCA data from EPA and providing read-only access to the public, is 3,816 hours. For the public to display photo identification, sign a sign-in sheet, certify that the individual has not received access to OCA information for more than 10 stationary sources for that calendar month, and to request information from the vulnerable zone indicator system (VZIS), EPA estimates a total of 8,754 hours annually. The total burden for the members of the public, state and local agencies is 15,840 hours and $413,380 annually (47,520 hours for three years and $1,240,140).

Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information.

The ICR provides a detailed explanation of the Agency's estimate, which is only briefly summarized here:

Estimated total number of potential respondents: 4,417.

Frequency of response: Annual.

Estimated total annual burden hours: 15,840.

Estimated total annual costs: $413,380.

The burden and cost reported here are from the current approved ICR. In the package submitted to OMB, the costs will change based on the most recent labor and wage rates information reported by the Bureau of Labor and Statistics.

What Is the Next Step in the Process for This ICR?

EPA will consider the comments received and amend the ICR as appropriate. The final ICR package will then be submitted to OMB for review and approval pursuant to 5 CFR 1320.12. At that time, EPA will issue another **Federal Register** notice pursuant to 5 CFR 1320.5(a)(1)(iv) to announce the submission of the ICR to OMB and the opportunity to submit additional comments to OMB. If you have any questions about this ICR or the approval process, please contact the

technical person listed under **FOR FURTHER INFORMATION CONTACT.**

Dated: July 10, 2006.

Deborah Y. Dietrich,

Director, Office of Emergency Management.

[FR Doc. E6–11106 Filed 7–13–06; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[ER–FRL–6677–3]

Environmental Impact Statements and Regulations; Availability of EPA Comments

Availability of EPA comments prepared pursuant to the Environmental Review Process (ERP), under section 309 of the Clean Air Act and Section 102(2)(c) of the National Environmental Policy Act as amended. Requests for copies of EPA comments can be directed to the Office of Federal Activities at 202–564–7167.

An explanation of the ratings assigned to draft environmental impact statements (EISs) was published in FR dated April 7, 2006 (71 FR 17845).

Draft EISs

EIS No. 20060141, ERP No. D–AFS–F65064–WI, Boulder Project, Timber Harvesting, Vegetation and Road Management, U.S. Army COE Section 404 Permit, Chequamegon-Nicolet National Forest, Lakewood-Laona Ranger District, Oconto and Langlade Counties, WI.

Summary: EPA expressed environmental concerns about the Draft EIS's discussion of habitat requirements and population trends for key species, notably the northern goshawk and red-shouldered hawk; the Final EIS should present a more complete cumulative impact analysis, covering the geographic range of targeted species, regardless of land ownership. Rating EC2.

EIS No. 20060146, ERP No. D–UAF–K11115–HI, Hickam Air Force Base and Bellows Air Force Station, 15th Airlift Wing, Housing Privatization Phase II, To Transfer the Remaining Housing Units, and Associated Infrastructure to Selected Offeror, O'ahu, HI.

Summary: EPA expressed concerns about a lack of federal commitment to sustainable building, and requested additional information and mitigation measures for air quality, stormwater pollution, and wetlands. Rating EC2.

EIS No. 20060147, ERP No. D–FTA–F40434–MN, Central Corridor Project, Develop a Light Rail Facility or a Busway/Bus Rapid Transit Facility, 11 miles between downtown Minneapolis and downtown St. Paul, Minnesota, Twin Cities Metropolitan Area, MN.

Summary: EPA expressed environmental concerns about traffic impacts, hazardous waste, noise impacts, possible geologic, water, and air issues, and alternative selection criteria. Rating EC2.

EIS No. 20060173, ERP No. D–UAF–K11021–GU, Andersen Air Force Base (AFB), Establish and Operate an Intelligence, Surveillance, Reconnaissance, and Strike (ISR/Strike) Capability, Guam.

Summary: EPA expressed environmental concerns about the disposal of wastewater from the project, and recommended the Air Force work with Guam Waterworks Authority towards upgrading the wastewater treatment plant. Other concerns include noise impacts, and impacts to endangered species. EPA requested additional information regarding cumulative impacts, resource use/impacts from 1,800 migrant laborers, and solid waste disposal and impacts to the Sole Source Aquifer.Rating EC2.

EIS No. 20060187, ERP No. D–AFS–F65065–WI, Long Rail Vegetation and Transportation Management Project, Implementation, Eagle River-Florence Ranger District, Chequamegon-Nicolet National Forest, Florence and Forest Counties, WI

Summary: EPA expressed environmental concern about whether the preferred alternative would support adequate habitat to support the regional species of concern. The Final EIS should include more information about impacts from timber harvest to riparian areas and adequate levels of successional habitat for population viability. Rating EC2.

EIS No. 20060211, ERP No. D–DOE–G03030–00, Strategic Petroleum Reserve Expansion, Site Selection of Five New Sites: Chacahoula and Clovelly, in Lafourche Parish, LA; Burinsburg, Claiborne County, MS; Richton, Perry County, MS; and Stratton Ridge, Brazoria County, TX and Existing Site Bayou Choctaw, Iberville Parish, LA, West Hackberry, Cameron and Calcasieu Parishes, LA; and Big Hill, Jefferson County, TX

Summary: EPA expressed environmental concerns and requested additional information about air quality, water quality, and wetlands. EPA is particularly interested in information pertaining to emissions from backup generators and other activities for each potential site that may require inclusion in the general conformity applicability analysis. Rating EC2.

Final EISs

EIS No. 20060133, ERP No. F–NRC–E06024–MS, Grand Gulf Early Site Permit (ESP) Site, Construction and Operation, Issuance of an Early Site Permit (ESP), NUREG–1817, Claiborne County, MS.

Summary: EPA continues to express concerns about the uncertainty of regulatory limits for offsite releases of radionuclides for the current candidate repository site. EPA recommends that emergency preparedness issues be evaluated regarding potential implications of a release to plant personnel or the public in the event of a major unintended release. EPA also recommends continued coordination with Environmental Justice communities in the area to ensure that their concerns are addressed as the project progresses.

EIS No. 20060179, ERP No. F–AFS–J65456–WY, Moose-Gypsum Project, Proposes to Authorize Vegetation Treatments, Watershed Improvements, and Travel Plan and Recreation Updates, Pinedale Ranger District, Bridger-Teton National Forest, Sublette County, WY

Summary: Quantified estimates of sediment impacts from modeling addressed EPA concerns about erosion. However, EPA continues to have concerns about the adaptive management program because there are no quantitative measures, thresholds, or required actions if physical and biological objectives are not met.

EIS No. 20060189, ERP No. F–NRC–F06027–OH, American Centrifuge Plant, Gas Centrifuge Uranium Enrichment Facility, Construction, Operation, and Decommission, License Issuance, Piketon, OH

Summary: EPA's concerns on the management of various materials, facility decontamination and decommissioning, groundwater contamination, and the relationship of the project to other facilities and contaminated sites at the Portsmouth Reservation have been resolved. However, EPA continues to have concerns about radionuclide air emissions standards compliance, waste processing capacity, construction air emissions, and cumulative impacts to surface water.

EIS No. 20060199, ERP No. F–AFS–F65050–MI, Huron-Manistee National Forests, Land and Resource Management Plan, Implementation, Several Counties, MI

Summary: EPA's concerns about potential impacts to soil and water quality and from invasive species have been addressed, therefore, we do not object to the proposed action.

EIS No. 20060261, ERP No. F–NPS–J61106–UT, Burr Trail Modification Project, Proposed Road Modification within Capitol Reef National Park, Garfield County, UT

Summary: No formal comment letter was sent to the preparing agency.

EIS No. 20060104, ERP No. FR–BLM–A65174–00, PROGRAMMATIC—Proposed Revision to Grazing Regulations for the Public Lands, 42 CFR Part 4100, in the Western Portion of the United States

Summary: No formal comment letter was sent to the preparing agency.

Dated: July 11, 2006.

Ken Mittelholtz,

Environmental Protection Specialist, Office of Federal Activities.

[FR Doc. E6–11129 Filed 7–13–06; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[ER–FRL–6677–2]

Environmental Impacts Statements; Notice of Availability

Responsible Agency: Office of Federal Activities, General Information (202) 564–7167 or *http://www.epa.gov/compliance/nepa/.*

Weekly receipt of Environmental Impact Statements Filed 07/03/2006 Through 07/07/2006.

Pursuant to 40 CFR 1506.9.

THIS NOTICE SUPERSEDES "SPECIAL NOTICE DATED: 07/07/2006" EIS'S FILED JUNE 19 THRU JUNE 23, 2006 SCHEDULED TO APPEAR IN THE **Federal Register** ON JUN 30, 2006, BUT WERE PUBLISHED ON MONDAY JULY 3, 2006. CALCULATED FROM JULY 3, 2006 **Federal Register** THE DRAFT EIS'S COMMENT PERIODS WILL END ON AUGUST 17, 2006 AND FINAL EIS'S WAIT PERIODS WILL END ON AUGUST 2, 2006.

EIS No. 20060281, Final EIS, NPS, CA, Furnace Creek Water Collection System, Reconstruction, Death Valley National Park, Implementation, Inyo County, CA, Wait Period Ends: 08/14/2006, Contact: Linda Greene 760–786–3253.

EIS No. 20060282, Final EIS, BLM, CA, Southern Diablo Mountain Range and Central Coast of California Resource Management Plan, Several Counties, CA, Wait Period Ends: 08/14/2006, Contact: Sky Murphy 831–630–5039.

EIS No. 20060283, Draft EIS, FHW, UT, Riverdale Road Project (UT–26), Improvement Mobility and Safety between 1900 West in Roy, UT and U.S. Highway 89 (Washington Boulevard) in Odgen, UT, Cities of Roy, Riverdale, South Ogden and Ogden, Weber County, UT, Comment Period Ends: 08/28/2006, Contact: Greg Punske 801–963–0182.

EIS No. 20060284, Draft EIS, FHW, KY, I–66 Somerset to London Project, Construction from the Vicinity of the Northern Bypass (I–66) in Somerset, KY to I–75 between London and Corbin Cities, Pulaski, U.S. Army COE Section 404 Permit, Rockcastle and Laurel Counties, KY, Comment Period Ends: 08/28/2006, Contact: Jose Sepulveda 502–223–6740.

EIS No. 20060285, Draft Supplement, FHW, ME, Aroostook County Transport Study, New and Updated Information, To Identify Transportation Corridors that will Improve Mobility and Efficiency within Northeastern Aroostook County and other portions of the U.S. and Canada, U.S. Army COE Section 404 Permit, Endangered Species Act, NPDES and Section 10 River and Harbors Act, Aroostook, ME, Comment Period Ends: 08/31/2006, Contact: Mark Hasselman 207–622–8350.

EIS No. 20060286, Draft EIS, BLM, ID, Eastside Township Fuels and Vegetation Project, Address the Forest Health, Fuels, Safety, and Watershed Issues, Elk City, Idaho County, ID, Comment Period Ends: , 09/11/2006, Contact: Robbin B. Boyce 208–962–3594.

EIS No. 20060287, Draft EIS, AFS, MT, Little Belt-Castle-North Half Crazy Mountains Travel Management Plan, To Change the Management of Motorized and Non-motorized Travel on the Road, Trails, and Areas within, Belt Creek, Judith, Musselshell, and White Sulphur Springs Ranger Districts, Lewis and Clark National Forest, Cascade, Judith Basin, Meagher, Wheatland, Sweetgrass and Park Counties, MT, Comment Period Ends: 09/15/2006, Contact: Dick Schwecke 406–791–7700.

EIS No. 20060288, Final EIS, FTA, CA, Warm Springs Extension, Proposing 5.4 mile Extension of the BART System in the City of Fremont, Funding, San Francisco Bay Area Rapid Transit District, Alameda County, CA, Wait Period Ends: 08/14/2006, Contact: Lorraine Lerman 415–744–2735.

EIS No. 20060289, Final EIS, AFS, WA, School Fire Salvage Recovery Project, Salvage Harvest Fire-Killed (dead) and Fire-Damaged (dying) Trees, Implementation, Pomeroy Ranger District, Umatilla National Forest, Columbia and Garfield Counties, WA, Wait Period Ends: 08/14/2006, Contact: Dean Millett 509–843–1891.

EIS No. 20060290, Draft Supplement, NRC, VA, Early Site Permit (ESP) at the North Anna Power Station ESP Site (TAC No. MC1128), New and Updated Information, Construction and Operation, NUREG–1811, Louisa County, VA, Comment Period Ends: 08/28/2006, Contact: Jacking Cushing 301–415–1424.

EIS No. 20060291, Final EIS, NOA, 00, Consolidated Atlantic Highly Migratory Species Fishery Management Plan for Atlantic Tunas, Swordfish, and Shark and the Atlantic Billfish Fishery Management Plan, Implementation, Atlantic Coast, Caribbean and Gulf of Mexico, Wait Period Ends: 08/14/2006, Contact: Karyle Brewster-Geisz 301–713–2347.

Amended Notices

EIS No. 20060260, Final EIS, BLM, AK, East Alaska Draft Resource Management Plan (RMP), Provide a Single Comprehensive Land Use Plan, Implementation, Glennallen Field Office District, AK, Wait Period Ends: 08/02/2006, Contact: Bruce Rogers 907–822–3217.

Revision to **Federal Register** Notice Published 07/03/2006: Correction to Wait Period from 07/31/2006 to 08/02/2006.

EIS No. 20060261, Final EIS, NPS, UT, Burr Trail Modification Project, Proposed Road Modification within Capitol Reef National Park, Garfield County, UT, Wait Period Ends: 08/02/2006, Contact: Chris Turk 303–969–2832.

Revision to **Federal Register** Notice Published 07/03/2006: Correction to Wait Period from 07/31/2006 to 08/02/2006.

EIS No. 20060263, Final EIS, BIA, MI, Nottawaseppi Huron Band of Potawatomi Indians (the Tribe), Proposes Fee-to-Trust Transfer and Casino Project, Calhoun County, MI, Wait Period Ends: 08/02/2006, Contact: Terrance Virden 612–725–4510.

Revision to **Federal Register** Notice Published 07/03/2006: Correction to Wait Period from 07/31/2006 to 08/02/2006.

EIS No. 20060264, Draft EIS, AFS, WY, Lower Valley Energy (LVE) Natural Gas Pipeline Project, Construction

and Operation of a Pressurized Natural Gas Pipeline, Special-Use-Authorization, Big Piney and Jackson Ranger Districts, Bridger-Teton National Forest, Sublette and Teton Counties, WY, Comment Period Ends: 08/25/2006, Contact: Teresa Trulock 307–276–3375.

Revision to **Federal Register** Notice Published 07/03/2006: Extend Comment Period from 08/17/2006 to 08/25/2006.

EIS No. 20060266, Draft EIS, DOT, TX, North Corridor Fixed Guideway Project, Propose Transit Improvements from University of Houston (UH)-Downtown Station to Northline Mall, Harris County, TX, Comment Period Ends: 08/17/2006, Contact: John Sweek 817–978–0550.

Revision to **Federal Register** Notice Published 07/03/2006: Correction to Comment Period from 08/14/2006 to 08/17/2006.

EIS No. 20060267, Final EIS, BLM, CA, Ukiah Resource Management Plan, Implementation, Several Counties, CA, Wait Period Ends: 08/02/2006, Contact: Eli Ilano 916–978–4427.

Revision to **Federal Register** Notice Published 07/03/2006: Correction to Wait Period from 08/14/2006 to 08/02/2006.

EIS No. 20060269, Draft Supplement, COE, MD, Masonville Dredged Material Containment Facility, New Information, New Source of Dike Building Material from the Seagirt Dredging Project within the Patapsco River, Funding, Baltimore, MD, Comment Period Ends: 08/17/2006, Contact: Jon Romeo 410–962–6079.

Revision to **Federal Register** Notice Published 07/03/2006: Correction to Comment Period from 08/14/2006 to 08/17/2006.

EIS No. 20060270, Second Draft Supplement, COE, FL, Cape Sable Seaside Sparrow Protection, Interim Operation Plan (IOP), Additional Information Alternative 7, Providing Additional Flood Control Capacity, Implementation, Everglades National Park, Miami-Dade County, FL, Comment Period Ends: 08/17/2006, Contact: Dr. Jon Moulding 904–232–2286

Revision to **Federal Register** Notice Published 07/03/2006: Correction to Comment Period from 08/14/2006 to 08/17/2006.

EIS No. 20060271, Draft EIS, CGD, 00, PROGRAMMATIC—Implementation of the U.S. Coast Guard Nationwide Automatic Identification System Project, Providing Vessel Identification, Tracking and Information Exchange Capabilities to Support National Maritime Interests, Comment Period Ends: 08/17/2006, Contact: Anita Allen 202–475–3292

Revision to **Federal Register** Notice Published 07/03/2006: Correction to Comment Period from 08/14/2006 to 08/17/2006.

EIS No. 20060272, Draft EIS, COE, NC, West Onslow Beach and New River Inlet (Topsail Beach) Shore Protection Project, Storm Damages and Beach Erosion Reduction, Funding, Pender County, NC, Comment Period Ends: 08/17/2006, Contact: Jenny Owens 910–251–4757.

Revision to **Federal Register** Notice Published 07/03/2006: Correction to Comment Period from 08/14/2006 to 08/17/2006.

EIS No. 20060273, Draft EIS, RUS, MT, Highwood Generating Station, 250-megawatt Coal Fired Power Plant and 6MW of Wind Generation at a Site near Great Falls, Construction and Operation, Licenses Permit, U.S. Army COE Section 10 Permit, Cascade County, MT, Comment Period Ends: 08/17/2006, Contact: Richard Fristik 202–720–5093.

This document is available on the Internet at: *http://www.usda.gov/rus/water/ees/eis.htm.*

Revision to **Federal Register** Notice Published 07/03/2006: Correction to Comment Period from 08/15/2006 to 08/17/2006.

EIS No. 20060278, Draft EIS, NOA, 00, North Atlantic Right Whale Ship Strike Reduction Strategy, To Implement the Operational Measures to Reduce the Occurrence and Severity of Vessel Collisions with the Right Whale, Serious Injury and Deaths Resulting from Collisions with Vessels, Comment Period Ends: 09/05/2006, Contact: Stewart Harris 301–713–2322.

Revision of **Federal Register** Notice Published 07/07/2006. Correction to Contact Person Name and Telephone Number.

Dated: July 11, 2006.

Robert W. Hargrove.

Director, NEPA Compliance Division, Office of Federal Activities.

[FR Doc. E6–11125 Filed 7–13–06; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OPP–2005–0479; FRL–8078–6]

Dicamba Reregistration Eligibility Decision; Notice of Availability

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces the availability of EPA's Reregistration Eligibility Decision (RED) for the pesticide dicamba acid and its associated salts and opens a public comment period on this document. The Agency's risk assessments and other related documents also are available in the dicamba Docket. Dicamba (2-methoxy-3,6-dichlorobenzoic acid) is a selective benzoic acid herbicide registered for pre-emergent control of broadleaf weeds and woody plants. EPA has reviewed dicamba through the public participation process that the Agency uses to involve the public in developing pesticide reregistration and tolerance reassessment decisions. Through these programs, EPA is ensuring that all pesticides meet current health and safety standards.

DATES: Comments must be received on or before September 12, 2006.

ADDRESSES: Submit your comments, identified by docket identification (ID) number EPA–HQ–OPP–2005–0479, by one of the following methods:

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

Instructions: Direct your comments to docket ID number EPA–HQ–OPP–2005–0479. EPA's policy is that all comments received will be included in the docket without change and may be made available on-line at *http://www.regulations.gov*, including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through regulations.gov or e-mail. The Federal regulations.gov website is an "anonymous access" system, which means EPA will not know your identity or contact

information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through regulations.gov, your e-mail address will be automatically captured and included as part of the comment that is placed in the docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD–ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may characters, any form of encryption, and be free of any defects or viruses.

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

FOR FURTHER INFORMATION CONTACT: Kendra Tyler, Special Review and Reregistration Division (7508P), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460-0001; telephone number: (703) 308-0125; fax number: (703) 308-8041; e-mail address: *tyler.kendra@epa.gov*.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

This action is directed to the public in general, and may be of interest to a wide range of stakeholders including environmental, human health, and agricultural advocates; the chemical industry; pesticide users; and members of the public interested in the sale, distribution, or use of pesticides. Since others also may 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. What Should I Consider as I Prepare My Comments for EPA?

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

2. *Tips for preparing your comments.* When submitting comments, remember to:

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

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

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

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

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

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

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

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

II. Background

A. What Action is the Agency Taking?

Under section 4 of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), EPA is reevaluating existing pesticides to ensure that they meet current scientific and regulatory standards. EPA has completed a Reregistration Eligibility Decision (RED) for the pesticide dicamba under section 4(g)(2)(A) of FIFRA.

Dicamba is an acid which forms salts in aqueous solutions. Various dicamba salts are formulated for herbicidal use and the following compounds are considered in the RED document: Dimethylamine (DMA) salt, sodium (NA) salt, isopropylamine (IPA) salt, diglycolamine (DGA) salt, and potassium (K) salt. Dicamba is widely used in agricultural, industrial, and residential settings. Different forms of dicamba (acid and salts) have registered uses on rights-of-way areas, asparagus, barley, corn (field and pop), grasses grown in pasture and rangeland, oats, proso millet, rye, sorghum, soybeans, sugarcane, and wheat. Residential uses include broadcast and spot treatment on golf courses and lawns. The completion of the Dicamba RED does not result in any additional tolerances being reassessed; tolerances were reassessed in 2000 when a new use was granted.

EPA has determined that the data base to support reregistration is substantially complete and that products containing dicamba are eligible for reregistration provided the risks are mitigated in the manner described in the RED. Upon submission of any required product-specific data under section 4(g)(2)(B) and any necessary changes to the registration and labeling (either to address concerns identified in the RED or as a result of product-specific data), EPA will make a final reregistration decision under section 4(g)(2)(C) for products containing dicamba.

EPA is applying the principles of public participation to all pesticides undergoing reregistration and tolerance reassessment. The Agency's Pesticide Tolerance Reassessment and Reregistration; Public Participation Process, published in the **Federal Register** on May 14, 2004 (69 FR 26819) (FRL–7357–9), explains that in conducting these programs, EPA is tailoring its public participation process to be commensurate with the level of risk, extent of use, complexity of issues, and degree of public concern associated with each pesticide. Due to its uses, risks, and other factors, dicamba was reviewed through the modified 4-Phase process. Through this process, EPA worked extensively with stakeholders and the public to reach the regulatory decisions for dicamba.

The reregistration program is being conducted under congressionally mandated time frames and EPA recognizes the need both to make timely decisions and to involve the public. The Agency is issuing the dicamba RED for public comment. This comment period is intended to provide an additional opportunity for public input and a mechanism for initiating any necessary

amendments to the RED. All comments should be submitted using the methods in **ADDRESSES**, and must be received by EPA on or before the closing date. These comments will become part of the Agency Docket for dicamba. Comments received after the close of the comment period will be marked "late." EPA is not required to consider these late comments.

The Agency will carefully consider all comments received by the closing date and will provide a Response to Comments Memorandum in the Docket and regulations.gov. If any comment significantly affects the document, EPA also will publish an amendment to the RED in the **Federal Register**. In the absence of substantive comments requiring changes, the dicamba RED will be implemented as it is now presented.

B. What is the Agency's Authority for Taking this Action?

Section 4(g)(2) of FIFRA as amended directs that, after submission of all data concerning a pesticide active ingredient, the Administrator shall determine whether pesticides containing such active ingredient are eligible for reregistration, 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, Pesticides and pests.

Dated: July 6, 2006.

Debra Edwards,

Director, Special Review and Reregistration Division, Office of Pesticide Programs.

[FR Doc. E6–11117 Filed 7–13–06; 8:45 am]

BILLING CODE 6560–50–S

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OPP–2006–0350; FRL–8060–4]

Notice of Filing of a Pesticide Petition for Establishment of Regulations for Residues of the Insecticide Imidacloprid in or on Soybean Commodities

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 the insecticide imidacloprid (1-[(6-chloro-3-pyridinyl)methyl]-N-nitro-2-imidazolidinimine) in or on soybean commodities.

DATES: Comments must be received on or before August 14, 2006.

ADDRESSES: Submit your comments, identified by docket identification (ID) number EPA–HQ–OPP–2006–0350 and pesticide petition number (PP) 6F7049 by one of the following methods:

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

Instructions: Direct your comments to docket ID number EPA–HQ–OPP–2006–0350. EPA's policy is that all comments received will be included in the docket without change and may be made available on-line at *http://www.regulations.gov*, including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through regulations.gov or e-mail. The Federal regulations.gov website is an "anonymous access" system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through regulations.gov, your e-mail address will be automatically captured and included as part of the comment that is placed in the docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD-ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses.

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

FOR FURTHER INFORMATION CONTACT: Dani Daniel, Registration Division (7505P), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460-0001; telephone number: (703) 305-5409; e-mail address: *daniel.dani@epa.gov*.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

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

- Crop production (NAICS code 111).
- Animal production (NAICS code 112).
- Food manufacturing (NAICS code 311).
- Pesticide manufacturing (NAICS code 32532).

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

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

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

2. *Tips for preparing your comments.* When submitting comments, remember to:

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

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

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

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

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

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

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

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

II. What Action is the Agency Taking?

EPA is printing a summary of a pesticide petition received under section 408 of the Federal Food, Drug, and Cosmetic Act (FFDCA), 21 U.S.C. 346a, proposing the establishment or amendment of regulations in 40 CFR part 180 for residues of pesticide chemicals in or on various food commodities. EPA has determined that this pesticide petition contains data or information regarding the elements set forth in FFDCA section 408(d)(2); however, EPA has not fully evaluated the sufficiency of the submitted data at this time or whether the data support granting of the pesticide petition. Additional data may be needed before EPA rules on this pesticide petition.

Pursuant to 40 CFR 180.7(f), a summary of the petition included in this notice, prepared by the petitioner along with a description of the analytical method available for the detection and measurement of the pesticide chemical residues is available on EPA's Electronic Docket at *http://www.regulations.gov*. To locate this information on the home page of EPA's Electronic Docket, select "Quick Search" and type the OPP docket ID number. Once the search has located the docket, clicking on the "Docket ID" will bring up a list of all documents in the docket for the pesticide including the petition summary.

New Tolerance

(PP) 6F7049. Bayer CropScience LLC, 2 T. W. Alexander Drive, Research Triangle Park, NC 27709, proposes to establish a tolerance for residues of the insecticide imidacloprid (1-[(6-chloro-3-pyridinyl)methyl]-N-nitro-2-imidazolidinimine) in or on food and feed commodities soybean, aspirated grain fractions at 240.0 parts per million (ppm); soybean, forage at 8.0 ppm; soybean, hay at 30.0 ppm; and soybean, seed at 1.6 ppm. The analytical method is a common moiety method for imidacloprid and its metabolites containing the 6-chloropyridinyl moiety using a permanganate oxidation, silyl derivatization, and capillary gas chromatography/mass spectrometry (GC/MS) selective ion monitoring. This method has successfully passed a petition method validation in EPA laboratories. There is a confirmatory method specifically for imidacloprid and several metabolites utilizing GC/MS and high pressure liquid chromatography/ultraviolet (HPLC/UV) which has been validated by the EPA as well.

List of Subjects

Environmental protection, Agricultural commodities, Feed additives, Food additives, Pesticides and pests, Reporting and recordkeeping requirements.

Dated: July 3, 2006.

Donald R. Stubbs,

Acting Director, Registration Division, Office of Pesticide Programs.

[FR Doc. E6–11007 Filed 7–13–06; 8:45 am]

BILLING CODE 6560–50–S

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OPP–2006–0209; FRL–8058–5]

Notice of Filing of a Pesticide Petition for Establishment of Regulations for Residues of Rimsulfuron in or on Various Food Commodities

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 in rimsulfuron (N-((4,6-dimethoxypyrimidin-2-yl)aminocarbonyl)-3-(ethylsulfonyl)-2-pyridinesulfonamide) in or on almond hulls, citrus/pome/stone fruit crop groups, grapes, pistachios, and tree nuts crop group.

DATES: Comments must be received on or before August 14, 2006.

ADDRESSES: Submit your comments, identified by docket identification (ID) number EPA–HQ–OPP–2006–0209 and pesticide petition number (PP) 5F7019 by one of the following methods:

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

Instructions: Direct your comments to docket ID number EPA–HQ–OPP–2006–0209. EPA's policy is that all comments received will be included in the docket without change and may be made available on-line at *http://www.regulations.gov*, including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through regulations.gov or e-mail. The Federal regulations.gov

website is an "anonymous access" system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through regulations.gov, your e-mail address will be automatically captured and included as part of the comment that is placed in the docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD-ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses.

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

FOR FURTHER INFORMATION CONTACT: Vickie Walters, Registration Division (7505P), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460-0001; telephone number: (703) 305-5704; e-mail address: *walters.vickie@epa.gov*.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

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

- Crop production (NAICS code 111).
- Animal production (NAICS code 112).
- Food manufacturing (NAICS code 311).
- Pesticide manufacturing (NAICS code 32532).

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

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

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

2. *Tips for preparing your comments.* When submitting comments, remember to:

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

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

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

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

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

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

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

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

II. What Action is the Agency Taking?

EPA is printing a summary of a pesticide petition received under section 408 of the Federal Food, Drug, and Cosmetic Act (FFDCA), 21 U.S.C. 346a, proposing the establishment or amendment of regulations in 40 CFR part 180 for residues of pesticide chemicals in or on various food commodities. EPA has determined that this pesticide petition contains data or information regarding the elements set forth in FFDCA section 408(d)(2); however, EPA has not fully evaluated the sufficiency of the submitted data at this time or whether the data support granting of the pesticide petition. Additional data may be needed before EPA rules on this pesticide petition.

Pursuant to 40 CFR 180.7(f), a summary of the petition included in this notice, prepared by the petitioner along with a description of the analytical method available for the detection and measurement of the pesticide chemical residues is available on EPA's Electronic Docket at *http://www.regulations.gov*. To locate this information on the home page of EPA's Electronic Docket, select "Quick Search" and type the OPP docket ID number. Once the search has located the docket, clicking on the "Docket ID" will bring up a list of all documents in the docket for the pesticide including the petition summary.

New Tolerance

PP 5F7019. E. I. du Pont de Nemours & Company, Laurel Run Plaza, P.O. Box 80038, Wilmington, DE 19880-0038, proposes to establish a tolerance for residues of the herbicide rimsulfuron (N-((4,6-dimethoxypyrimidin-2-yl)aminocarbonyl)-3-(ethylsulfonyl)-2-pyridinesulfonamide) in or on almond hulls, citrus/pome/stone fruit crop group, grapes, pistachios, and tree nuts crop group at 0.01 parts per million (ppm). An adequate analytical methodology, high-pressure liquid chromatography with ESI-MS/MS detection is available for enforcement purposes. The two methods are "Analytical Method for the Determination of Rimsulfuron in Watery and Dry Crop Matrices by HPLC/ESI-MS/MS" (DuPont Report 15033) and "Analytical Method for the Determination of Rimsulfuron in Oily Crop Matrices by HPLC/ESI-MS/MS" (DuPont Report 15027). The limit of

quantitation for rimsulfuron with these methods in raw agricultural commodities and in processed fractions is 0.01 ppm.

List of Subjects

Environmental protection, Agricultural commodities, Feed additives, Food additives, Pesticides and pests, Reporting and recordkeeping requirements.

Dated: July 3, 2006.

Donald R. Stubbs,

Acting Director, Registration Division, Office of Pesticide Programs.

[FR Doc. E6–11006 Filed 7–13–06; 8:45 am]

BILLING CODE 6560–50–S

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OPP–2006–0207; FRL–8058–7]

Notice of Filing of a Pesticide Petition for Establishment of Regulations for Residues of Tribenuron Methyl in or on Various Food and Feed Commodities

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 tribenuron methyl (methyl 2-[[[[(4-methoxy-6-methyl-1,3,5-triazin-2-yl)methylamino] carbonyl]amino]sulfonyl] benzoate) in or on field corn and grain sorghum (forage, grain, and stover), rice (grain and straw), soybean seed, and sunflowers.

DATES: Comments must be received on or before August 14, 2006.

ADDRESSES: Submit your comments, identified by docket identification (ID) number EPA–HQ–OPP–2006–0207, by one of the following methods:

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

Instructions: Direct your comments to docket ID number EPA–HQ–OPP–2006–0207. EPA's policy is that all comments received will be included in the docket without change and may be made available on-line at *http://www.regulations.gov*, including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through regulations.gov or e-mail. The Federal regulations.gov website is an "anonymous access" system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through regulations.gov, your e-mail address will be automatically captured and included as part of the comment that is placed in the docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD-ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses.

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

FOR FURTHER INFORMATION CONTACT: Vickie Walters, Registration Division (7505P), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460-0001; phone number: (703) 305-5704; e-mail address: *walters.vickie@epa.gov*.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

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

- Crop production (NAICS code 111).
- Animal production (NAICS code 112).
- Food manufacturing (NAICS code 311).
- Pesticide manufacturing (NAICS code 32532).

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

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

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

2. *Tips for preparing your comments.* When submitting comments, remember to:

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

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

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

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

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

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

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

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

II. What Action is the Agency Taking?

EPA is printing a summary of a pesticide petition received under section 408 of the Federal Food, Drug, and Cosmetic Act (FFDCA), 21 U.S.C. 346a, proposing the establishment or amendment of regulations in 40 CFR part 180 for residues of pesticide chemicals in or on various food commodities. EPA has determined that this pesticide petition contains data or information regarding the elements set forth in FFDCA section 408(d)(2); however, EPA has not fully evaluated the sufficiency of the submitted data at this time or whether the data support granting of the pesticide petition. Additional data may be needed before EPA rules on this pesticide petition.

Pursuant to 40 CFR 180.7(f), a summary of the petition included in this notice, prepared by the petitioner along with a description of the analytical method available for the detection and measurement of the pesticide chemical residues is available on EPA's Electronic Docket at *http://www.regulations.gov*. To locate this information on the home page of EPA's Electronic Docket, select "Quick Search" and type the OPP docket ID number. Once the search has located the docket, clicking on the "Docket ID" will bring up a list of all documents in the docket for the pesticide including the petition summary.

New Tolerance

PP 4F6890. E. I. du Pont de Nemours and Company, Laurel Run Plaza, P.O. Box 80038, Wilmington, DE 19880-0038 and Interregional Research Project No. 4 (IR-4), 681 Highway No.1 South, North Brunswick, NJ 08902, proposes to establish a tolerance for residues of the herbicide tribenuron methyl (methyl 2-[[[[(4-methoxy-6-methyl-1,3,5-triazin-2-yl)methylamino carbonyl]amino]sulfonyl] benzoate) in or on field corn and grain sorghum (forage, grain, and stover); rice (grain and straw); soybean, seed; and sunflowers at 0.05 parts per million (ppm).

Various analytical methods are available for the determination of residues of tribenuron methyl in these food and feed commodities. The analysis of sunflower samples were conducted using a high pressure liquid chromatography (HPLC) with column switching and ultraviolet (UV) detection. The limit of quantitation (LOQ) for the analysis of sunflower seed was 0.05 ppm based on a 5 gram sample. Residues for rice (grain and straw), field corn, and grain sorghum (forage and stover) were determined with an analytical method utilizing sample extraction by homogenization in a potassium phosphate buffer solution. The extracts were cleaned up and concentrated by solid-phase extraction. Analysis was performed by reverse-phase HPLC and quantitatively analyzed by tandem mass spectrometric detection. The target LOQ was 0.05 ppm in these commodities. Residues in field corn and grain sorghum (grain), and soybean seed were determined by an analytical method utilizing liquid chromatography/liquid chromatography/mass spectrometry (LC/LC/MS) analysis. The analytes were resolved by HPLC chromatography and quantitatively analyzed by tandem mass spectrometric detection. The LOQ was 0.05 ppm in these commodities.

List of Subjects

Environmental protection, Agricultural commodities, Feed additives, Food additives, Pesticides and pests. Reporting and recordkeeping requirements.

Dated: July 3, 2006.

Donald R. Stubbs,

Acting Director, Registration Division, Office of Pesticide Programs.

[FR Doc. E6–11008 Filed 7–13–06; 8:45 am]

BILLING CODE 6560–50–S

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OPP–2006–0208; FRL–8058–8]

Notice of Filing of a Pesticide Petition for Establishment of Regulations for Residues of Thifensulfuron Methyl in or on Grain Sorghum and Rice Commodities

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 in thifensulfuron methyl (methyl-3-[[[[(4-methoxy-6-methyl-1,3,5-triazin-2-yl)amino]carbonyl]amino]sulfonyl]-2-thiophene carboxylate) in or on grain sorghum (forage, grain, and stover), and rice (grain and straw).

DATES: Comments must be received on or before August 14, 2006.

ADDRESSES: Submit your comments, identified by docket identification (ID) number EPA–HQ–OPP–2006–0208, by one of the following methods:

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

Instructions: Direct your comments to docket ID number EPA–HQ–OPP–2006–0208. EPA's policy is that all comments received will be included in the docket without change and may be made available on-line at *http://www.regulations.gov*, including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through regulations.gov or e-mail. The Federal regulations.gov website is an "anonymous access"

system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through regulations.gov, your e-mail address will be automatically captured and included as part of the comment that is placed in the docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD-ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses.

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

FOR FURTHER INFORMATION CONTACT: Vickie Walters, Registration Division (7505P), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460-0001; telephone number: (703) 305-5704; e-mail address: *walters.vickie@epa.gov*.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

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

- Crop production (NAICS code 111).
- Animal production (NAICS code 112).
- Food manufacturing (NAICS code 311).
- Pesticide manufacturing (NAICS code 32532).

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

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

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

2. *Tips for preparing your comments.* When submitting comments, remember to:

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

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

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

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

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

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

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

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

II. What Action is the Agency Taking?

EPA is printing a summary of a pesticide petition received under section 408 of the Federal Food, Drug, and Cosmetic Act (FFDCA), 21 U.S.C. 346a, proposing the establishment or amendment of regulations in 40 CFR part 180 for residues of pesticide chemicals in or on various food commodities. EPA has determined that this pesticide petition contains data or information regarding the elements set forth in FFDCA section 408(d)(2); however, EPA has not fully evaluated the sufficiency of the submitted data at this time or whether the data support granting of the pesticide petition. Additional data may be needed before EPA rules on this pesticide petition.

Pursuant to 40 CFR 180.7(f), a summary of the petition included in this notice, prepared by the petitioner along with a description of the analytical method available for the detection and measurement of the pesticide chemical residues is available on EPA's Electronic Docket at *http://www.regulations.gov*. To locate this information on the home page of EPA's Electronic Docket, select "Quick Search" and type the OPP docket ID number. Once the search has located the docket, clicking on the "Docket ID" will bring up a list of all documents in the docket for the pesticide including the petition summary.

New Tolerance

PP 4F6889. E. I. du Pont de Nemours & Company, Laurel Run Plaza, P.O. Box 80038, Wilmington, DE 19880-0038, proposes to establish a tolerance for residues of the herbicide thifensulfuron methyl (methyl-3-[[[[(4-methoxy-6-methyl-1,3,5-triazin-2-yl)amino]carbonyl]amino]sulfonyl]-2-thiophene carboxylate) in or on grain sorghum (forage, grain, and stover); and rice (grain and straw) at 0.05 parts per million (ppm).

Thifensulfuron methyl residues in grain sorghum (grain) were determined by an analytical method utilizing liquid chromatography/mass spectrometry/mass spectrometry (LC/MS/MS) analysis. The analytes were resolved by high pressure liquid chromatography (HPLC) and quantitatively analyzed by tandem mass spectrometric detection. The limit of quantitation (LOQ) was 0.05 ppm. Residues in rice commodities and in grain sorghum (forage and stover) were determined with an analytical method utilizing sample extraction by homogenization in a potassium

phosphate buffer solution. The extracts were cleaned up and concentrated by solid-phase extraction. Analysis was performed by reversed-phase HPLC and quantitatively analyzed by tandem mass spectrometric detection. The target LOQ was 0.05 ppm for these commodities.

List of Subjects

Environmental protection, Agricultural commodities, Feed additives, Food additives, Pesticides and pests, Reporting and recordkeeping requirements.

Dated: July 3, 2006.

Donald R. Stubbs,

Acting Director, Registration Division, Office of Pesticide Programs.

[FR Doc. E6–11009 Filed 7–13–06; 8:45 am]

BILLING CODE 6560–50–S

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OPP–2006–0579; FRL–8077–3]

Notice of Filing of Pesticide Petitions for Establishment and Amendment of Regulations for Residues of Pesticide Chemical Spinosad in or on Various Commodities

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces the initial filing of pesticide petitions proposing the establishment and amendment of regulations for residues of spinosad in or on hops, and amaranth, grain, stover; and to amend by increasing existing tolerances for cattle, meat; sheep, meat; goat, meat; horse, meat; poultry, meat; cattle, fat; sheep, fat; goat, fat; horse, fat; poultry, fat; milk; milk, fat; and egg. Additionally, existing tolerances for meat byproducts which are currently based on residues in liver will be amended to establish separate liver tolerances and lower the meat byproducts tolerances which will now be based on residues in the kidney as follows: Cattle, meat byproducts, except liver; sheep, meat byproducts, except liver; goat, meat byproducts, except liver; horse, meat byproducts, except liver; poultry, meat byproducts, except liver; cattle, liver; sheep, liver; goat, liver; and horse, liver.

DATES: Comments must be received on or before August 14, 2006.

ADDRESSES: Submit your comments, identified by docket identification (ID) number EPA–HQ–OPP–2006–0579 and pesticide petition numbers (PP) 3E6802 and 6E7068, by one of the following methods:

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

Instructions: Direct your comments to docket ID number EPA–HQ–OPP–2006–0579. EPA's policy is that all comments received will be included in the docket without change and may be made available on-line at *http://www.regulations.gov*, including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through regulations.gov or e-mail. The Federal regulations.gov website is an "anonymous access" system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through regulations.gov, your e-mail address will be automatically captured and included as part of the comment that is placed in the docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD-ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses.

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

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

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

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

- Crop production (NAICS code 111).
- Animal production (NAICS code 112).
- Food manufacturing (NAICS code 311).
- Pesticide manufacturing (NAICS code 32532).

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

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

1. *Submitting CBI.* Do not submit this information to EPA through regulations.gov or e-mail. Clearly mark the part or all of the information that you claim to be CBI. For CBI information in a disk or CD ROM that you mail to EPA, mark the outside of the disk or CD ROM as CBI and then identify electronically within the disk or

CD ROM the specific information that is claimed as CBI. In addition to one complete version of the comment that includes information claimed as CBI, a copy of the comment that does not contain the information claimed as CBI must be submitted for inclusion in the public docket. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2.

2. *Tips for preparing your comments.* When submitting comments, remember to:

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

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

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

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

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

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

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

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

II. What Action is the Agency Taking?

EPA is printing a summary of each pesticide petition received under section 408 of the Federal Food, Drug, and Cosmetic Act (FFDCA), 21 U.S.C. 346a, proposing the establishment or amendment of regulations in 40 CFR part 180 for residues of pesticide chemicals in or on various food commodities. EPA has determined that these pesticide petitions contains data or information regarding the elements set forth in FFDCA section 408(d)(2); however, EPA has not fully evaluated the sufficiency of the submitted data at this time or whether the data support granting of these pesticide petitions. Additional data may be needed before EPA rules on these pesticide petitions.

Pursuant to 40 CFR 180.7(f), a summary of the petitions included in this notice, prepared by the petitioner along with a description of the analytical method available for the detection and measurement of the pesticide chemical residues is available on EPA's Electronic Docket at *http://www.regulations.gov*. To locate this information on the home page of EPA's Electronic Docket, select "Quick Search" and type the OPP docket ID number. Once the search has located the docket, clicking on the "Docket ID" will bring up a list of all documents in the docket for the pesticide including the petition summary.

New and Amended Tolerances

PP 3E6802 and 6E7068. The Interregional Research Project No. 4 (IR-4), 681 Highway 1 South, North Brunswick, NJ 08902-3390, proposes to establish tolerances for residues of the insecticide spinosad in or on food commodities: Hops at 22 parts per million (ppm) (6E7068); and amaranth, grain, stover at 10 ppm (3E6802); and to increase existing tolerances for cattle, meat at 2 ppm (3E6802); sheep, meat at 2 ppm (3E6802); goat, meat at 2 ppm (3E6802); horse, meat at 2 ppm (3E6802); poultry, meat at 0.1 ppm; cattle, fat at 50 ppm (3E6802); sheep, fat at 50 ppm (3E6802); goat, fat at 50 ppm (3E6802); horse, fat at 50 ppm (3E6802); poultry, fat at 1.3 ppm; milk at 7.0 ppm (3E6802); milk, fat at 85 ppm (3E6802); and egg at 0.3 ppm (3E6802).

Additionally, existing tolerances for meat by products which are currently based on residues in liver will be amended to establish separate liver tolerances and lower the meat byproducts tolerances which will now be based on residues in the kidney as follows: Cattle, meat byproducts, except liver at 5 ppm (3E6802); sheep, meat byproducts, except liver at 5 ppm (3E6802); goat, meat byproducts, except liver at 5 ppm (3E6802); horse, meat byproducts, except liver at 5 ppm (3E6802); poultry meat byproducts tolerance raised from 0.03 ppm and set at 0.1 ppm (3E6802); cattle, liver at 10 ppm (3E6802); sheep, liver at 10 ppm (3E6802); goat, liver at 10 ppm (3E6802); and horse, liver at 10 ppm (3E6802). There is a practical method liquid chromotography mass spectrometry - atmospheric pressure chemical ionization (LCMS-APCI) for detecting and measuring levels of spinosad in or on food with a limit of detection (0.002 ppm) that allows monitoring of food with residues at or above the level set for these tolerances. The method had undergone successful EPA laboratory validation is use to measure and evaluate the chemical residues.

List of Subjects

Environmental protection, Agricultural commodities, Feed additives, Food additives, Pesticides and pests, Reporting and recordkeeping requirements.

Dated: June 30, 2006.

Daniel J. Rosenblatt,

Acting Director, Registration Division, Office of Pesticide Programs.

[FR Doc. E6–11003 Filed 7–13–06; 8:45 am]

BILLING CODE 6560–50–S

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OPP–2006–0206; FRL–8057–7]

Notice of Filing of a Pesticide Petition for Establishment of Regulations for Residues of Sulfosulfuron and Its Metabolites in or on Various Food and Feed Commodities

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 sulfosulfuron in 1-(4,6-dimethoxypyrimidin-2-yl)-3-[(2-ethane-sulfonyl-imidazo[1,2-a]pyridine-3-yl)sulfonyl]urea, and its metabolites converted to 2-(ethylsulfonyl)imidazo[1,2-a]pyridine and calculated as sulfosulfuron or on grass (forage and hay), milk, and fat, meat, and meat byproducts of cattle, goat, horse, and sheep.

DATES: Comments must be received on or before August 14, 2006.

ADDRESSES: Submit your comments, identified by docket identification (ID) number EPA–HQ–OPP–2006–0206 and pesticide petition number (PP) 6F7031 by one of the following methods:

- *http://www.regulations.gov/*: Follow the on-line instructions for submitting comments.
- *Mail*: Public Information and Records Integrity Branch (PIRIB) (7502C), Office of Pesticide Programs (OPP), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460-0001.

Hand Delivery: Public Information and Records Integrity Branch (PIRIB) (7502C), Office of Pesticide Programs (OPP), Environmental Protection Agency, Rm. 119, Crystal Mall #2, 1801 S. Bell St., Arlington, VA, Attention: Docket ID number EPA–HQ–OPP–2006–0206. The Docket Facility is open from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Docket Facility is (703) 305-5805. Such deliveries are only accepted during the Docket's normal hours of operation, and

special arrangements should be made for deliveries of boxed information.

Instructions: Direct your comments to docket ID number EPA–HQ–OPP–2006–0206. EPA's policy is that all comments received will be included in the public docket without change and may be made available on-line at *http://www.regulations.gov/*, including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through regulations.gov or e-mail. The regulations.gov website is an "anonymous access" system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through regulations.gov, your e-mail address will be captured automatically and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses. For additional information about EPA's public docket, visit the EPA Docket Center homepage at *http://www.epa.gov/epahome/dockets.htm/*.

Docket: All documents in the docket are listed in the regulation.gov index. Although listed in the index, some information is not publicly available, i.e., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, will be publicly available only in hard copy. Publicly available docket materials are available either electronically at *http://www.regulations.gov* or in hard copy at the Public Information and Records Integrity Branch (PIRIB) (7502C), Office of Pesticide Programs (OPP), Environmental Protection Agency, Rm. 119, Crystal Mall #2, 1801 S. Bell St., Arlington, VA. The Docket Facility is open from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The Docket Facility telephone number is (703) 305-5805.

FOR FURTHER INFORMATION CONTACT: Vickie Walters, Registration Division (7505C), Office of Pesticide Programs, U. S. Environmental Protection Agency, 1200 Pennsylvania Ave., NW, Washington, DC 20460-0001; phone number: 703-305-5704; e-mail address: *walters.vickie@epa.gov*.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

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

- Crop production (NAICS code 111).
- Animal production (NAICS code 112).
- Food manufacturing (NAICS code 311).
- Pesticide manufacturing (NAICS code 32532).

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

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

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

2. *Tips for preparing your comments.* When submitting comments, remember to:

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

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

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

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

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

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

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

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

II. What Action is the Agency Taking?

EPA is printing a summary of each pesticide petition received under section 408 of the Federal Food, Drug, and Cosmetic Act (FFDCA), 21 U.S.C. 346a, proposing the establishment or amendment of regulations in 40 CFR part 180 for residues of pesticide chemicals in or on various food commodities. EPA has determined that this pesticide petition contains data or information regarding the elements set forth in FFDCA section 408(d)(2); however, EPA has not fully evaluated the sufficiency of the submitted data at this time or whether the data support granting of the pesticide petition. Additional data may be needed before EPA rules on this pesticide petition.

Pursuant to 40 CFR 180.7(f), a summary of the petition included in this notice, prepared by the petitioner along with a description of the analytical method available for the detection and measurement of the pesticide chemical residues is available on EPA's Electronic Docket at *http://www.regulations.gov/*. To locate this information on the home page of EPA's Electronic Docket, select "Quick Search" and type the OPP docket ID number. Once the search has located the docket, clicking on the "Docket ID" will bring up a list of all documents in the docket for the pesticide including the petition summary.

New Tolerance

PP 6F7031. Monsanto Company, 1300 I St., NW., Suite 450 East, Washington, DC 20005, proposes to establish a tolerance for residues of the herbicide

sulfosulfuron, 1-(4,6-dimethoxypyrimidin-2-yl)-3-[(2-ethanesulfonyl-imidazo[1,2-a]pyridine-3-yl)sulfonyl]urea, and its metabolites converted to 2-(ethylsulfonyl)imidazo[1,2-a]pyridine and calculated as sulfosulfuron in or on food and feed commodities grass, forage at 13.0 parts per million (ppm); grass, hay at 14.0 ppm; milk at 0.02 ppm; fat of cattle, goat, horse, and sheep at 0.03 ppm; meat of cattle, goat, horse, and sheep at 0.01 ppm; and meat byproducts of cattle, goat, horse, and sheep at 0.4 ppm. An analytical method utilizing liquid chromatography/mass spectrometry/mass spectrometry (LC/MS/MS) detection is available for enforcement purposes. The method involves acid hydrolysis to ethyl sulfone, a common chemophore that quantifies all sulfosulfuron residues in which the imidazopyridine ring remained intact.

List of Subjects

Environmental protection, Agricultural commodities, Feed additives, Food additives, Pesticides and pests, Reporting and recordkeeping requirements.

Dated: July 3, 2006.

Donald R. Stubbs,

Acting Director, Registration Division, Office of Pesticide Programs.

[FR Doc. E6–11014 Filed 7–13–06; 8:45 am]

BILLING CODE 6560–50–S

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OPP–2006–0079; FRL–8076–9]

Experimental Use Permit; Receipt of Application

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces receipt of an application 66330-EUP-GT from Arysta LifeScience North America Corporation requesting an experimental use permit (EUP) for the technical product and end-use formulation of iodomethane (Midas 50:50). The Agency has determined that the application may be of regional or national significance. Therefore, in accordance with 40 CFR 172.11(a), the Agency is soliciting comments on this application.

DATES: Comments must be received on or before August 14, 2006.

ADDRESSES: Submit your comments, identified by docket identification (ID) number EPA–HQ–OPP–2006–0079 by one of the following methods:

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

Instructions: Direct your comments to docket ID number EPA–HQ–OPP–2006–0079. EPA's policy is that all comments received will be included in the docket without change and may be made available on-line at *http://www.regulations.gov*, including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through regulations.gov or e-mail. The Federal regulations.gov website is an "anonymous access" system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through regulations.gov, your e-mail address will be automatically captured and included as part of the comment that is placed in the docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD-ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses.

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

FOR FURTHER INFORMATION CONTACT: Mary Waller, Registration Division (7505P), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460-0001; telephone number: (703) 308-9354; e-mail address: *waller.mary@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 an agricultural producer, food manufacturer, pesticide manufacturer or those who are or may be required to conduct testing of chemical substances under the Federal Food, Drug, and Cosmetic Act (FFDCA) or the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA). 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. What Should I Consider as I Prepare My Comments for EPA?

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

2. *Tips for preparing your comments.* When submitting comments, remember to:

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

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

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

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

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

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

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

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

II. Background

Arysta LifeScience North America Corporation is requesting an Experimental Use Permit (EUP) for iodomethane, a new active ingredient, pre-plant field fumigant and proposed methyl bromide alternative. The proposed EUP program would be initiated in August 2006 and finalized in August 2007. The program proposes a total of 1000 acres comprised of up to 275 small field trials, ranging from 1 to 20 acres each in Florida, Georgia, Michigan, North Carolina, South Carolina, Tennessee and Virginia. Up to 75,000 pounds of Iodomethane will be used to treat strawberries, tomatoes, peppers and field-grown ornamentals. The planned experimental use program is intended to provide additional information on the use of an iodomethane formulation with several different application techniques; provide a large scale trial information, such as efficacy, marketable yield and commercial application equipment adaptability; and evaluate novel application techniques such as the use of metallic film tarpaulins.

III. What Action is the Agency Taking?

Following the review of the Arysta LifeScience North America Corporation application and any comments and data received in response to this notice, EPA will decide whether to issue or deny the EUP request for this EUP program, and if issued, the conditions under which it is to be conducted. Any issuance of an EUP will be announced in the **Federal Register**.

IV. What is the Agency's Authority for Taking this Action?

The specific legal authority for EPA to take this action is under FIFRA section 5.

List of Subjects

Environmental protection, Experimental use permits.

Dated: July 3, 2006.

Donald R. Stubbs,

Acting Director, Registration Division, Office of Pesticide Programs.

[FR Doc. E6–11015 Filed 7–13–06; 8: 45 am]

BILLING CODE 6560–50–S

FEDERAL HOUSING FINANCE BOARD

[No. 2006–N–04]

Federal Home Loan Bank Members Selected for Community Support Review

AGENCY: Federal Housing Finance Board.

ACTION: Notice.

SUMMARY: The Federal Housing Finance Board (Finance Board) is announcing the Federal Home Loan Bank (Bank) members it has selected for the 2006–07 second quarter review cycle under the Finance Board's community support requirements regulation. This notice also prescribes the deadline by which Bank members selected for review must submit Community Support Statements to the Finance Board.

DATES: Bank members selected for the review cycle under the Finance Board's community support requirements regulation must submit completed Community Support Statements to the Finance Board on or before September 1, 2006.

ADDRESSES: Bank members selected for the 2006–07 second quarter review cycle under the Finance Board's community support requirements regulation must submit completed Community Support Statements to the Finance Board either by regular mail at the Federal Housing Finance Board, Office of Supervision, Community Investment and Affordable Housing, 1625 Eye Street, NW., Washington, DC 20006, or by electronic mail at *FITZGERALDE@FHFB.GOV*.

FOR FURTHER INFORMATION CONTACT: Emma J. Fitzgerald, Program Analyst, Office of Supervision, Community Investment and Affordable Housing, by telephone at 202/408–2874, by electronic mail at *FITZGERALDE@FHFB.GOV*, or by regular mail at the Federal Housing Finance Board, 1625 Eye Street, NW., Washington, DC 20006.

SUPPLEMENTARY INFORMATION:

I. Selection for Community Support Review

Section 10(g)(1) of the Federal Home Loan Bank Act (Bank Act) requires the Finance Board to promulgate regulations establishing standards of community investment or service Bank members must meet in order to maintain access to long-term advances. See 12 U.S.C. 1430(g)(1). The regulations promulgated by the Finance Board must take into account factors such as the Bank member's performance under the Community Reinvestment Act of 1977 (CRA), 12 U.S.C. 2901 et seq., and record of lending to first-time homebuyers. See 12 U.S.C. 1430(g)(2). Pursuant to section 10(g) of the Bank Act, the Finance Board has promulgated a community support requirements regulation that establishes standards a Bank member must meet in order to maintain access to long-term advances, and review criteria the Finance Board must apply in evaluating a member's community support performance. See 12 CFR part 944. The regulation includes standards and criteria for the two statutory factors—CRA performance and record of lending to first-time homebuyers. 12 CFR 944.3. Only members subject to the CRA must meet the CRA standard. 12 CFR 944.3(b). All members, including those not subject to CRA, must meet the first-time homebuyer standard. 12 CFR 944.3(c).

Under the rule, the Finance Board selects approximately one-eighth of the members in each Bank district for community support review each calendar quarter. 12 CFR 944.2(a). The Finance Board will not review an institution's community support performance until it has been a Bank member for at least one year. Selection for review is not, nor should it be construed as, any indication of either the financial condition or the community support performance of the member.

Each Bank member selected for review must complete a Community Support Statement and submit it to the Finance Board by the September 1, 2006 deadline prescribed in this notice. 12 CFR 944.2(b)(1)(ii) and (c). On or before July 28, 2006, each Bank will notify the members in its district that have been selected for the 2006–07 second quarter community support review cycle that

they must complete and submit to the Finance Board by the deadline a Community Support Statement. 12 CFR 944.2(b)(2)(i). The member's Bank will provide a blank Community Support Statement Form, which also is available on the Finance Board's Web site: *http://www.fhfb.gov*. Upon request, the member's Bank also will provide assistance in completing the Community Support Statement.

The Finance Board has selected the following members for the 2006–07 second quarter community support review cycle:

Member	City	State
Federal Home Loan Bank of Boston—District 1		
Superior Savings of New England, N.A	Branford	Connecticut
Enfield Federal Savings and Loan Association	Enfield	Connecticut.
Essex Savings Bank	Essex	Connecticut.
First City Bank	New Britain	Connecticut.
Citizens Bank	New London	Connecticut.
Auburn Savings & Loan Association	Auburn	Maine.
First National Bank of Bar Harbor	Bar Harbor	Maine.
First FS&LA of Bath	Bath	Maine.
Aroostook County FS&LA	Caribou	Maine.
Kennebunk Savings Bank	Kennebunk	Maine.
Portland Regional Federal Credit Union	Portland	Maine.
Skowhegan Savings Bank	Skowhegan	Maine.
Kennebec Federal Savings	Waterville	Maine.
North Middlesex Savings Bank	Ayer	Massachusetts.
First Trade Union Bank	Boston	Massachusetts.
Boston Private Bank & Trust Company	Boston	Massachusetts.
First Federal Savings Bank of Boston	Boston	Massachusetts.
Investors Bank & Trust Company	Boston	Massachusetts.
Peoples Federal Savings Bank	Brighton	Massachusetts.
Cambridge Savings Bank	Cambridge	Massachusetts.
East Cambridge Savings Bank	Cambridge	Massachusetts.
Dedham Institution for Savings	Dedham	Massachusetts.
Eagle Bank	Everett	Massachusetts.
Citizens-Union Savings Bank	Fall River	Massachusetts.
Foxboro Federal Savings	Foxboro	Massachusetts.
Georgetown Savings Bank	Georgetown	Massachusetts.
Hyde Park Savings Bank	Hyde Park	Massachusetts.
Marblehead Savings Bank	Marblehead	Massachusetts.
Medford Co-operative Bank	Medford	Massachusetts.
Plymouth Savings Bank	Middleboro	Massachusetts.
Millbury Savings Bank	Millbury	Massachusetts.
Monson Savings Bank	Monson	Massachusetts.
Lawrence Savings Bank	North Andover	Massachusetts.
Saugusbank, a co-operative bank	Saugus	Massachusetts.
Scituate Federal Savings Bank	Scituate	Massachusetts.
Middlesex Federal Savings, F.A	Somerville	Massachusetts.
Spencer Savings Bank	Spencer	Massachusetts.
Hampden Bank	Springfield	Massachusetts.
Bristol County Savings Bank	Taunton	Massachusetts.
The Savings Bank	Wakefield	Massachusetts.
Federal Savings Bank	Dover	New Hampshire.
Franklin Savings Bank	Franklin	New Hampshire.
Meredith Village Savings Bank	Meredith	New Hampshire.
Salem Co-operative Bank	Salem	New Hampshire.
First Brandon National Bank	Brandon	Vermont.
Opportunities Credit Union	Burlington	Vermont.
Randolph National Bank	Randolph	Vermont.
Federal Home Loan Bank of New York—District 2		
Pamrapo Savings Bank SLA	Bayonne	New Jersey.
Farmers & Mechanics Bank	Burlington	New Jersey.
Spencer Savings Bank, SLA	Elmwood Park	New Jersey.
Freehold Savings & Loan Association	Freehold	New Jersey.
GSL Savings Bank	Guttenberg	New Jersey.
Oritani Savings Bank	Hackensack	New Jersey.
Hudson United Bank	Mahwah	New Jersey.
Millington Savings Bank	Millington	New Jersey.
Ocean City Home Bank	Ocean City	New Jersey.
Amboy National Bank	Old Bridge	New Jersey.
Investors Savings Bank	Short Hills	New Jersey.
OceanFirst Bank	Tom Rivers	New Jersey.
Bath National Bank	Bath	New York.
Brooklyn Federal Savings Bank	Brooklyn	New York.
Canisteo Savings & Loan Association	Canisteo	New York.

Member	City	State
Elmira Savings & Loan, F.A	Elmira	New York.
National Bank of Geneva	Geneva	New York.
Glens Falls National Bank and Trust Company	Glens Falls	New York.
Maple City Savings Bank, FSB	Hornell	New York.
Sunnyside FS&LA of Irvington	Irvington	New York.
The Lyons National Bank	Lyons	New York.
Maspeth Federal Savings and Loan Association	Maspeth	New York.
Massena Savings & Loan Association	Massena	New York.
Cross County Federal Savings Bank	Middle Village	New York.
Provident Bank	Montebello	New York.
The Berkshire Bank	New York	New York.
Carver Federal Savings Bank	New York	New York.
First Tier Bank & Trust	Olean	New York.
Wilber National Bank	Oneonta	New York.
Union State Bank	Orangeburg	New York.
The Upstate National Bank	Rochester	New York.
Saratoga National Bank & Trust Company	Saratoga Springs	New York.
The National Bank of Stamford	Stamford	New York.
Federal Home Loan Bank of Pittsburgh—District 3		
Delaware National Bank	Georgetown	Delaware.
Artisans' Bank	Wilmington	Delaware.
Laurel Savings Bank	Allison Park	Pennsylvania.
Reliance Savings Bank	Altoona	Pennsylvania.
Investment Savings Bank	Altoona	Pennsylvania.
Keystone Nazareth Bank & Trust	Bethlehem	Pennsylvania.
Columbia County Farmers National Bank	Bloomsburg	Pennsylvania.
The Bryn Mawr Trust Company	Bryn Mawr	Pennsylvania.
Nextier	Butler	Pennsylvania.
Community Bank, N.A	Carmichaels	Pennsylvania.
Charleroi Federal Savings Bank	Charleroi	Pennsylvania.
FirsTrust Bank	Conshohocken	Pennsylvania.
Armstrong County Building & Loan Association	Ford City	Pennsylvania.
Greenville Savings Bank	Greenville	Pennsylvania.
Westmoreland FS&LA of Latrobe	Latrobe	Pennsylvania.
Mifflin County Savings Bank	Lewistown	Pennsylvania.
First Citizens National Bank	Mansfield	Pennsylvania.
The First National Bank of Mifflintown	Mifflintown	Pennsylvania.
First Federal Savings Bank	Monessen	Pennsylvania.
Parkvale Savings Bank	Monroeville	Pennsylvania.
Community State Bank of Orbisonia	Orbisonia	Pennsylvania.
Beneficial Mutual Savings Bank	Philadelphia	Pennsylvania.
Prudential Savings Bank	Philadelphia	Pennsylvania.
Republic First Bank	Philadelphia	Pennsylvania.
West View Savings Bank	Pittsburgh	Pennsylvania.
Keystone State Savings Bank	Pittsburgh	Pennsylvania.
Liberty Savings Bank, F.S.B	Pottsville	Pennsylvania.
Union Bank and Trust Company	Pottsville	Pennsylvania.
Elk County Savings & Loan Association	Ridgway	Pennsylvania.
Sewickley Savings Bank	Sewickley	Pennsylvania.
ESSA Bank & Trust	Stroudsburg	Pennsylvania.
Washington Federal Savings Bank	Washington	Pennsylvania.
First FS&LA of Greene County	Waynesburg	Pennsylvania.
Citizens & Northern Bank	Wellsboro	Pennsylvania.
First Sentry Bank, Inc	Huntington	West Virginia.
Huntington Federal Savings Bank	Huntington	West Virginia.
Doolin Security Savings Bank FSB	New Martinsville	West Virginia.
United Bank, Inc	Parkersburg	West Virginia.
First FS&LA of Ravenswood	Ravenswood	West Virginia.
First Federal Savings Bank	Sistersville	West Virginia.
Williamstown National Bank	Williamstown	West Virginia.
Federal Home Loan Bank of Atlanta—District 4		
Superior Bank	Birmingham	Alabama.
Alabama Central Credit Union	Birmingham	Alabama.
Brantley Bank and Trust Company	Brantley	Alabama.
Robertson Banking Company	Demopolis	Alabama.
The Citizens Bank	Greensboro	Alabama.
Security Federal Savings Bank	Jasper	Alabama.
Gulf Federal Bank, a FSB	Mobile	Alabama.
The Citizens Bank	Moulton	Alabama.
Phenix-Girard Bank	Phenix City	Alabama.

Member	City	State
Bay Bank	Theodore	Alabama.
The Bank of Vernon	Vernon	Alabama.
Bank of Wedowee	Wedowee	Alabama.
Bank of Belle Glade	Belle Glade	Florida.
Community Bank of Manatee	Bradenton	Florida.
Florida Citizens Bank	Gainesville	Florida.
First State Bank of Florida Keys	Key West	Florida.
Commercebank, N.A	Miami	Florida.
International Finance Bank	Miami	Florida.
Charlotte State Bank	Port Charlotte	Florida.
Bank of St. Augustine	St. Augustine	Florida.
Cornerstone Bank	Atlanta	Georgia.
United Community Bank—North Carolina	Blairsville	Georgia.
The Claxton Bank	Claxton	Georgia.
Chestatee State Bank	Dawsonville	Georgia.
Haven Trust Bank	Decatur	Georgia.
Colony Bank Southeast	Douglas	Georgia.
Bank of Eastman	Eastman	Georgia.
Appalachian Community Bank	Ellijay	Georgia.
Capital Bank Fort	Oglethorpe	Georgia.
Bank of Hiawassee	Hiawassee	Georgia.
Farmers State Bank	Lincolnton	Georgia.
Peoples Bank	Lyons	Georgia.
Bank of Monticello	Monticello	Georgia.
Mount Vernon Bank	Mt. Vernon	Georgia.
The Citizens Bank	Nashville	Georgia.
Colony Bank Wilcox	Rochelle	Georgia.
Greater Rome Bank	Rome	Georgia.
Georgia Central Bank	Social Circle	Georgia.
Community First Bank	Baltimore	Maryland.
Mercantile Safe Deposit and Trust Company	Baltimore	Maryland.
Easton Bank and Trust Company	Easton	Maryland.
Jarrettsville Federal S&L Association	Jarrettsville	Maryland.
Maryland Bank and Trust Company, N.A	Lexington Park	Maryland.
First National Bank of North East	North East	Maryland.
Colombo Bank	Rockville	Maryland.
The East Carolina Bank	Engelhard	North Carolina.
First Bank	Troy	North Carolina.
Sandhills Bank	Bethune	South Carolina.
First Federal Savings and Loan Association	Charleston	South Carolina.
The Peoples Bank	Iva	South Carolina.
The Palmetto Bank	Laurens	South Carolina.
The Citizens Bank	Olanta	South Carolina.
Heritage Bank and Trust	Chesapeake	Virginia.
First State Bank	Danville	Virginia.
Powell Valley National Bank	Jonesville	Virginia.
The Bank of Charlotte County	Phenix	Virginia.
Valley Bank	Roanoke	Virginia.

Federal Home Loan Bank of Cincinnati—District 5

Bank of Edmonson County	Brownsville	Kentucky.
United Citizens Bank & Trust Company	Campbellsburg	Kentucky.
Citizens Bank & Trust Company	Campbellsville	Kentucky.
Farmers and Traders Bank of Campton	Campton	Kentucky.
Carrollton Federal Bank	Carrollton	Kentucky.
The First National Bank of Muhlenburg County	Central City	Kentucky.
First Community Bank of Western Kentucky, Inc	Clinton	Kentucky.
Clinton Bank	Clinton	Kentucky.
The Farmers National Bank of Cynthiana	Cynthiana	Kentucky.
Central Kentucky Federal Savings Bank	Danville	Kentucky.
United Kentucky Bank of Pendleton County, Inc	Falmouth	Kentucky.
State Bank & Trust Company	Harrodsburg	Kentucky.
First Federal Savings & Loan Association	Hazard	Kentucky.
The Citizens National Bank	Lebanon	Kentucky.
Peoples Bank	Lebanon	Kentucky.
Home Federal Bank Corporation	Middlesboro	Kentucky.
Peoples Bank of Mt. Washington	Mt. Washington	Kentucky.
Liberty National Bank	Ada	Ohio.
Peoples Savings and Loan Company	Bucyrus	Ohio.
The Clifton Heights S&L Company	Cincinnati	Ohio.
First Safety Bank	Cincinnati	Ohio.
The Savings Bank	Circleville	Ohio.
The Peoples Bank Company	Coldwater	Ohio.

Member	City	State
First City Bank	Columbus	Ohio.
The Cortland Savings and Banking Company	Cortland	Ohio.
Ohio Heritage Bank	Coshocton	Ohio.
Valley Savings Bank	Cuyahoga Falls	Ohio.
First Federal Bank of the Midwest	Defiance	Ohio.
Fidelity Federal Savings and Loan Association	Delaware	Ohio.
Heartland Bank	Gahanna	Ohio.
Home Building and Loan Company	Greenfield	Ohio.
Greenville Federal Savings and Loan Association	Greenville	Ohio.
Ohio River Bank	Ironton	Ohio.
Liberty Federal Savings Bank	Ironton	Ohio.
The Home Savings and Loan Company of Kenton, Ohio	Kenton	Ohio.
Kingston National Bank	Kingston	Ohio.
The Citizens Bank of Logan	Logan	Ohio.
The Mechanics Savings Bank	Mansfield	Ohio.
Peoples Bank	Marietta	Ohio.
The Middlefield Banking Company	Middlefield	Ohio.
The Nelsonville Home and Savings Association	Nelsonville	Ohio.
First FS&LA of Newark	Newark	Ohio.
The National Bank of Oak Harbor	Oak Harbor	Ohio.
The Valley Central Savings Bank	Reading	Ohio.
The Citizens Banking Company	Sandusky	Ohio.
Peoples Federal Savings and Loan Association of Sidney	Sidney	Ohio.
Commodore Bank	Somerset	Ohio.
Monroe Federal Savings and Loan Association	Tipp City	Ohio.
Van Wert Federal Savings Bank	Van Wert	Ohio.
Home Savings Bank	Wapakoneta	Ohio.
The Waterford Commercial and Savings Bank	Waterford	Ohio.
Adams County Building and Loan Company	West Union	Ohio.
Century National Bank	Zanesville	Ohio.
Bank of Bartlett	Bartlett	Tennessee.
Farmers & Merchants Bank	Clarksville	Tennessee.
Farmers and Merchants Bank	Dyer	Tennessee.
First Citizens National Bank of Dyersburg	Dyersburg	Tennessee.
Elizabethton Federal Savings Bank	Elizabethton	Tennessee.
Progressive Savings Bank, FSB	Jamestown	Tennessee.
Home Federal Bank of Tennessee	Knoxville	Tennessee.
Volunteer Federal Savings & Loan Association	Madisonville	Tennessee.
Jefferson Federal Bank	Morristown	Tennessee.
TNBANK	Oak Ridge	Tennessee.
Citizens Community Bank	Winchester	Tennessee.
Federal Home Loan Bank of Indianapolis—District 6		
First Federal Savings Bank—Angola	Angola	Indiana.
Peoples FSB of Dekalb County	Auburn	Indiana.
Farmers and Mechanics Bank	Bloomfield	Indiana.
The First State Bank	Bourbon	Indiana.
Home Federal Bank	Columbus	Indiana.
Community First Bank	Corydon	Indiana.
Old National Bank	Evansville	Indiana.
Farmers Bank	Frankfort	Indiana.
Newton County Loan & SA, FSB	Goodland	Indiana.
First Federal Savings & Loan of Greensburg	Greensburg	Indiana.
Lake FS & LA of Hammond	Hammond	Indiana.
HFS Bank, FSB	Hobart	Indiana.
Security Federal Savings Bank	Logansport	Indiana.
City Savings Bank	Michigan City	Indiana.
The First National Bank of Monterey	Monterey	Indiana.
First Merchants Bank, N.A	Muncie	Indiana.
Mutual FSB	Muncie	Indiana.
American Savings, FSB	Munster	Indiana.
Community Bank	Noblesville	Indiana.
The First National Bank of Odon	Odon	Indiana.
Lincoln Bank	Plainfield	Indiana.
Scottsburg Building & Loan Association	Scottsburg	Indiana.
Owen Community Bank, s.b	Spencer	Indiana.
First Financial Bank	Terre Haute	Indiana.
First FSB of Wabash	Wabash	Indiana.
Peoples Bank	Washington	Indiana.
First Federal Savings Bank	Washington	Indiana.
Bank of Wolcott	Wolcott	Indiana.
First Federal of Northern Michigan	Alpena	Michigan.
Bay Port State Bank	Bay Port	Michigan.

Member	City	State
Farmers State Bank Breckenridge	Breckenridge	Michigan.
Eaton Federal Savings Bank	Charlotte	Michigan.
Huron Community Bank	East Tawas	Michigan.
Hastings City Bank	Hastings	Michigan.
Kalamazoo County State Bank	Schoolcraft	Michigan.
First National Bank of St. Ignace	St. Ignace	Michigan.
Northwestern Bank	Traverse City	Michigan.
Federal Home Loan Bank of Chicago—District 7		
West Pointe Bank and Trust Company	Belleville	Illinois.
Belvidere National Bank and Trust Company	Belvidere	Illinois.
American Enterprise Bank	Buffalo Grove	Illinois.
Farmers State Bank of Camp Point	Camp Point	Illinois.
Cornerstone Bank & Trust, N.A	Carrolton	Illinois.
First Federal Savings Bank of Champaign-Urbana	Champaign	Illinois.
Central Illinois Bank	Champaign	Illinois.
Charleston Federal Savings & Loan Association	Charleston	Illinois.
Lincoln Park Savings Bank	Chicago	Illinois.
Broadway Bank	Chicago	Illinois.
Central FS&LA of Chicago	Chicago	Illinois.
Columbus Savings Bank	Chicago	Illinois.
Liberty Bank for Savings	Chicago	Illinois.
Mutual Federal Savings and Loan	Chicago	Illinois.
Collinsville Building and Loan Association	Collinsville	Illinois.
Home Federal Savings & Loan Association	Collinsville	Illinois.
First Federal Savings and Loan Association	Edwardsville	Illinois.
Forreston State Bank	Forreston	Illinois.
Hickory Point Bank & Trust, FSb	Forsyth	Illinois.
Glenview State Bank	Glenview	Illinois.
Guardian Savings Bank FSB	Granite City	Illinois.
First National Bank of Grant Park	Grant Park	Illinois.
The Granville National Bank	Granville	Illinois.
The Bradford National Bank	Greenville	Illinois.
The Havana National Bank	Havana	Illinois.
Herrin Security Bank	Herrin	Illinois.
South End Savings, s.b	Homewood	Illinois.
First National Bank of Jonesboro	Jonesboro	Illinois.
Eureka Savings Bank	La Salle	Illinois.
First State Bank of Western Illinois	LaHarpe	Illinois.
First National Bank of Illinois	Lansing	Illinois.
Lisle Savings Bank	Lisle	Illinois.
First National Bank of Litchfield	Litchfield	Illinois.
West Suburban Bank	Lombard	Illinois.
First Security Bank	Mackinaw	Illinois.
First National Bank of Manhattan	Manhattan	Illinois.
Milford Building & Loan Association	Milford	Illinois.
Nashville Savings Bank	Nashville	Illinois.
Wheaton Bank & Trust Company	Northfield	Illinois.
Illini State Bank	Oglesby	Illinois.
The Poplar Grove State Bank	Poplar Grove	Illinois.
Citizens First National Bank	Princeton	Illinois.
First Robinson Savings Bank, NA	Robinson	Illinois.
First FS&LA of Shelbyville	Shelbyville	Illinois.
The First National Bank	Vandalia	Illinois.
International Bank of Amherst	Amherst	Wisconsin.
First National Bank of Bangor	Bangor	Wisconsin.
Bank of Brodhead	Brodhead	Wisconsin.
Bank of Deerfield	Deerfield	Wisconsin.
Fox Valley Savings Bank	Fond du Lac	Wisconsin.
National Exchange Bank & Trust	Fond du Lac	Wisconsin.
Continental Savings Bank,	Greenfield	Wisconsin.
ISB Community Bank	Ixonia	Wisconsin.
Ladysmith Federal Savings & Loan Association	Ladysmith	Wisconsin.
Markesan State Bank	Markesan	Wisconsin.
Farmers State Bank	Markesan	Wisconsin.
Fidelity National Bank	Medford	Wisconsin.
Merrill Federal Savings and Loan Association	Merrill	Wisconsin.
Guaranty Bank, F.S.B	Milwaukee	Wisconsin.
Bank of Elmwood	Racine	Wisconsin.
Heritage Bank	Spencer	Wisconsin.
First Bank	Tomah	Wisconsin.
The Farmers State Bank of Waupaca	Waupaca	Wisconsin.
Paper City Savings Association	Wisconsin. Rapids	Wisconsin..

Member	City	State
Federal Home Loan Bank of Des Moines—District 8		
Citizens Savings Bank	Anamosa	Iowa.
Community State Bank, N.A	Ankeny	Iowa.
Ashton State Bank	Ashton	Iowa.
Atkins Savings Bank	Atkins	Iowa.
Iowa Trust and Savings Bank	Centerville	Iowa.
First Security Bank and Trust Company	Charles City	Iowa.
Page County Federal Savings Association	Clarinda	Iowa.
First Trust and Savings Bank	Corlaville	Iowa.
First Federal Savings Bank of Creston, F.S.B.	Creston	Iowa.
Principal Bank	Des Moines	Iowa.
Fidelity Bank & Trust	Dyersville	Iowa.
Community Savings Bank	Edgewood	Iowa.
First American Bank	Fort Dodge	Iowa.
Citizens State Bank	Ft. Dodge	Iowa.
Hampton State Bank	Hampton	Iowa.
Independence Federal Bank for Savings	Independence	Iowa.
Farmers & Merchants Savings Bank	Iowa. City	Iowa.
First Community Bank	Keokuk	Iowa.
Keokuk Savings Bank & Trust Company	Keokuk	Iowa.
Keystone Savings Bank	Keystone	Iowa.
Iowa State Savings Bank	Knoxville	Iowa.
Cedar Valley Bank & Trust	La Porte	Iowa.
United Community Bank	Milford	Iowa.
New Albin Savings Bank	New Albin	Iowa.
City State Bank	Norwalk	Iowa.
Northwestern Bank	Orange City	Iowa.
Clarke County State Bank	Osceola	Iowa.
Bank Iowa	Oskaloosa	Iowa.
Citizens Bank	Sac City	Iowa.
American State Bank	Sioux Center	Iowa.
Solon State Bank	Solon	Iowa.
Northwest Federal Savings Bank	Spencer	Iowa.
MetaBank	Storm Lake	Iowa.
Randall-Story State Bank	Story City	Iowa.
Waukee State Bank	Waukee	Iowa.
Liberty Bank, FSB	West Des Moines	Iowa.
West Liberty State Bank	West Liberty	Iowa.
Viking Savings Association, F.A.	Alexandria	Minnesota
Northern National Bank	Baxter	Minnesota
First State Bank of Bigfork	Bigfork	Minnesota
Brainerd Savings & Loan Association	Brainerd	Minnesota
State Bank in Eden Valley	Eden Valley	Minnesota
Bank Midwest, MN IA, N.A	Fairmont	Minnesota
State Bank of Faribault	Faribault	Minnesota
First National Bank of Menahga	Menahga	Minnesota
TCF National Bank	Minneapolis	Minnesota
First Minnesota Bank, NA	Minnetonka	Minnesota
The First National Bank of Osakis	Osakis	Minnesota
First National Bank of Plainview	Plainview	Minnesota
Citizens Independent Bank	St. Louis Park	Minnesota
First National Bank Minnesota	St. Peter	Minnesota
Minnwest Bank South	Tracy	Minnesota
Queen City Federal Savings Bank	Virginia	Minnesota
Missouri Federal Savings Bank	Cameron	Missouri
Southwest Missouri Bank	Carthage	Missouri
North American Savings Bank, FSB	Grandview	Missouri
MCM Savings Bank, F.S.B.	Hannibal	Missouri
First Bank	Hazelwood	Missouri
First Federal Bank, F.S.B	Kansas City	Missouri.
Liberty Savings Bank, FSB	Liberty	Missouri.
Clay County Savings Bank	Liberty	Missouri.
First Home Savings Bank	Mountain Grove	Missouri.
Home S&LA of Norborne, F.A	Norborne	Missouri.
Southern Missouri Bank & Trust Company	Poplar Bluff	Missouri.
Central Federal Savings and Loan Association	Rolla	Missouri.
Montgomery Bank, NA	Sikeston	Missouri.
Guaranty Bank	Springfield	Missouri.
Midwest FS&LA of St. Joseph	St. Joseph	Missouri.
Lindell Bank & Trust Company	St. Louis	Missouri.
Southern Commercial Bank	St. Louis	Missouri.
Bremen Bank and Trust Company	St. Louis	Missouri.
Starion Financial	Bismarck	North Dakota.

Member	City	State
Ramsey National Bank & Trust Company	Devils Lake	North Dakota.
American State Bank & Trust	Dickinson	North Dakota.
Security State Bank	Dunseith	North Dakota.
Alerus Financial, N.A	Grand Forks	North Dakota.
National Bank of Harvey	Harvey	North Dakota.
Dacotah Bank	Aberdeen	South Dakota.
First Savings Bank	Beresford	South Dakota.
First Federal Bank	Beresford	South Dakota.
First Bank & Trust	Brookings	South Dakota.
Bryant State Bank	Bryant	South Dakota.
First Western Federal Savings Bank	Rapid City	South Dakota.
Federal Home Loan Bank of Dallas—District 9		
FNBC	Ash Flat	Arkansas.
ANB Financial, N.A	Bentonville	Arkansas.
Heartland Community Bank	Camden	Arkansas.
Corning Savings and Loan Association	Corning	Arkansas.
Arkansas Diamond Bank	Glenwood	Arkansas.
First Arkansas Bank & Trust	Jacksonville	Arkansas.
First Community Bank	Jonesboro	Arkansas.
Arkansas Bankers' Bank	Little Rock	Arkansas.
Diamond State Bank	Murfreesboro	Arkansas.
First National Bank	Paragould	Arkansas.
Bank of Rogers	Rogers	Arkansas.
The Bank of Star City	Star City	Arkansas.
First National Bank USA	Boutte	Louisiana.
Citizens Progressive Bank	Columbia	Louisiana.
Beauregard Federal Savings Bank	DeRidder	Louisiana.
Home Bank	Lafayette	Louisiana.
First Federal Bank of Louisiana	Lake Charles	Louisiana.
Bank of New Orleans	Metairie	Louisiana.
Minden Building and Loan Association	Minden	Louisiana.
Dryades Savings Bank, FSB	New Orleans	Louisiana.
Fifth District Savings & Loan Association	New Orleans	Louisiana.
Union Savings and Loan Association	New Orleans	Louisiana.
Plaquemine Bank & Trust Company	Plaquemine	Louisiana.
Rayne Building and Loan Association	Rayne	Louisiana.
Citizens Bank and Trust Company	Springhill	Louisiana.
Statewide Bank	Terrytown	Louisiana.
Community Bank, N.A	Lucedale	Mississippi.
First National Bank of Pontotoc	Pontotoc	Mississippi.
First Bank & Trust of Mississippi	Winona	Mississippi.
Alamogordo Federal Savings & Loan Association	Alamogordo	New Mexico.
Charter Bank	Albuquerque	New Mexico.
First National Bank	Artesia	New Mexico.
The First National Bank of New Mexico	Clayton	New Mexico.
First National Bank in Las Vegas	Las Vegas	New Mexico.
First Federal Bank	Roswell	New Mexico.
Firstbank Southwest, National Association	Amarillo	Texas.
Southwest Securities FSB	Arlington	Texas.
Affiliated Bank, FSB	Bedford	Texas.
The Brenham National Bank	Brenham	Texas.
Texas Bank	Brownwood	Texas.
The First National Bank of Chillicothe	Chillicothe	Texas.
First Bank of West Texas	Coahoma	Texas.
The First State Bank	Columbus	Texas.
First Bank of Conroe, N.A	Conroe	Texas.
First Commerce Bank	Corpus Christi	Texas.
Citizens National Bank	Crockett	Texas.
Cuero State Bank, s.s.b	Cuero	Texas.
Dalhart Federal Savings and Loan Association	Dalhart	Texas.
Preston National Bank	Dallas	Texas.
Colonial Savings, F.A	Fort Worth	Texas.
Citizens National Bank	Fort Worth	Texas.
GNB Financial, na	Gainesville	Texas.
National Bank	Gatesville	Texas.
Gladewater National Bank	Gladewater	Texas.
Houston Community Bank, N.A	Houston	Texas.
Justin State Bank	Justin	Texas.
City National Bank	Kilgore	Texas.
National Bank & Trust	La Grange	Texas.
Fayette Savings Bank, ssb	La Grange	Texas.
Falcon National Bank	Laredo	Texas.

Member	City	State
Commerce Bank	Laredo	Texas.
Texas Bank and Trust Company	Longview	Texas.
East Texas Professional Credit Union	Longview	Texas.
First State Bank	Louise	Texas.
Lubbock National Bank	Lubbock	Texas.
First Bank & Trust Company	Lubbock	Texas.
First National Bank of Mount Vernon, Texas	Mount Vernon	Texas.
First National Bank in Munday	Munday	Texas.
The Morris County National Bank	Naples	Texas.
First Federal Community Bank	Paris	Texas.
Peoples Bank	Paris	Texas.
Gulf Coast Educators Federal Credit Union	Pasadena	Texas.
PointBank, N.A	Pilot Point	Texas.
Pilgrim Bank	Pittsburg	Texas.
Wood County National Bank	Quitman	Texas.
Robert Lee State Bank	Robert Lee	Texas.
Intercontinental National Bank	San Antonio	Texas.
Citizens State Bank	Sealy	Texas.
American National Bank of Texas	Terrell	Texas.
Citizens 1st Bank	Tyler	Texas.
Hill Bank & Trust Company	Weimar	Texas.
American National Bank	Wichita Falls	Texas.
Wilson State Bank	Wilson	Texas.
Federal Home Loan Bank of Topeka—District 10		
San Luis Valley Federal Bank	Alamosa	Colorado.
Collegiate Peaks Bank	Buena Vista	Colorado.
Rocky Mountain Bank and Trust	Colorado. Springs	Colorado.
Pikes Peak National Bank	Colorado. Springs	Colorado.
Vectra Bank Colorado	Denver	Colorado.
First National Bank	Fort Collins	Colorado.
Community Banks of Colorado	Greenwood Village	Colorado.
Gunnison Savings and Loan Association	Gunnison	Colorado.
Rio Grande Savings and Loan Association	Monte Vista	Colorado.
Montrose Bank	Montrose	Colorado.
Peoples National Bank Monument	Monument	Colorado.
The First National Bank of Ordway	Ordway	Colorado.
Paonia State Bank	Paonia	Colorado.
Century Savings & Loan Association	Trinidad	Colorado.
Park State Bank & Trust	Woodland Park	Colorado.
The Prairie State Bank	Augusta	Kansas.
First National Bank of Cimarron	Cimarron	Kansas.
Farmers Bank & Trust, N.A	Great Bend	Kansas.
Golden Belt Bank, FSA	Hays	Kansas.
Citizens State Bank and Trust Company	Hiawatha	Kansas.
Girard National Bank	Horton	Kansas.
Central National Bank	Junction City	Kansas.
Argentine Federal Savings	Kansas. City	Kansas.
Citizens Bank of Kansas, N.A	Kingman	Kansas.
University National Bank	Lawrence	Kansas.
Mutual Savings Association, FSA	Leavenworth	Kansas.
The Citizens State Bank	Moundridge	Kansas.
Midland National Bank of Newton	Newton	Kansas.
Security Savings Bank, FSB	Olathe	Kansas.
Bank of Blue Valley	Overland Park	Kansas.
Peabody State Bank	Peabody	Kansas.
The Plains State Bank	Plains	Kansas.
The Peoples Bank	Pratt	Kansas.
First Bank Kansas	Salina	Kansas.
The Stockton National Bank	Stockton	Kansas.
First National Bank	Syracuse	Kansas.
The Bank of Tescott	Tescott	Kansas.
Silver Lake Bank	Topeka	Kansas.
Capitol Federal Savings Bank	Topeka	Kansas.
Kendall State Bank	Valley Falls	Kansas.
The Bank of Commerce & Trust Company	Wellington	Kansas.
Garden Plain State Bank	Wichita	Kansas.
Commerce Bank, N.A.	Wichita	Kansas.
Western Heritage Credit Union	Alliance	Nebraska.
Farmers & Merchants National Bank	Ashland	Nebraska.
Clarkson Bank	Clarkson	Nebraska.
Nebraska Energy Federal Credit Union	Columbus	Nebraska.
American Interstate Bank	Elkhorn	Nebraska.

Member	City	State
Genoa National Bank	Genoa	Nebraska.
TierOne Bank	Lincoln	Nebraska.
Otoe County Bank & Trust Company	Kansas City	Nebraska.
The Nehawka Bank	Nehawka	Nebraska.
Enterprise Bank, NA	Omaha	Nebraska.
Platte Valley National Bank	Scottsbluff	Nebraska.
First National Bank	Sidney	Nebraska.
Anadarko Bank and Trust Company	Anadarko	Oklahoma.
Community Bank	Bristow	Oklahoma.
Oklahoma. Bank & Trust Company	Clinton	Oklahoma.
American Bank of Oklahoma	Collinsville	Oklahoma.
Citizens Bank of Edmond	Edmond	Oklahoma.
First National Bank	Elk City	Oklahoma.
Bank of the Panhandle	Guymon	Oklahoma.
Legacy Bank	Hinton	Oklahoma.
McCurtain County National Bank	Idabel	Oklahoma.
The First State Bank	Keyes	Oklahoma.
City National Bank & Trust Company	Lawton	Oklahoma.
First State Bank of Porter	Locust Grove	Oklahoma.
First National Bank in Marlow	Marlow	Oklahoma.
Community National Bank of Okarche	Okarche	Oklahoma.
First National Bank in Okeene	Okeene	Oklahoma.
The Bankers Bank	Oklahoma City	Oklahoma.
BancFirst	Oklahoma City	Oklahoma.
NBanc—OKC	Oklahoma City	Oklahoma.
The Okmulgee Savings and Loan Association	Okmulgee	Oklahoma.
Bank of the Lakes, N.A	Owasso	Oklahoma.
Farmers State Bank	Quinton	Oklahoma.
First National Bank & Trust Company	Shawnee	Oklahoma.
Triad Bank, N.A	Tulsa	Oklahoma.
Valley National Bank	Tulsa	Oklahoma.
The First National Bank, Vinita	Vinita	Oklahoma.
Platte Valley National Bank	Torrington	Wyoming.
Federal Home Loan Bank of San Francisco—District 11		
City National Bank	Beverly Hills	California.
Pacific Premier Bank	Costa Mesa	California.
Fullerton Community Bank	Fullerton	California.
Silvergate Bank	La Jolla	California.
Borrego Springs Bank, N.A	La Mesa	California.
Broadway Federal Bank, f.s.b	Los Angeles	California.
Gold Country Bank, NA	Marysville	California.
Monterey County Bank	Monterey	California.
Metropolitan Bank	Oakland	California.
Community Bank	Pasadena	California.
IndyMac Bank	Pasadena	California.
El Dorado Savings Bank	Placerville	California.
Bank of America	San Francisco	California.
Sincere Federal Savings Bank	San Francisco	California.
National American Bank	San Francisco	California.
East West Bank	San Marino	California.
First FS&LA of San Rafael	San Rafael	California.
First Federal Bank of California	Santa Monica	California.
Santa Clara Valley, N.A	Santa Paula	California.
National Bank of the Redwoods	Santa Rosa	California.
Sunwest Bank	Tustin	California.
Desert Community Bank	Victorville	California.
Washington Mutual Bank	Seattle	Washington.
Federal Home Loan Bank of Seattle—District 12		
First National Bank Alaska	Anchorage	Alaska.
Mt. McKinley Bank	Fairbanks	Alaska.
Bank of Guam	Hagatna	Guam.
American Savings Bank	Honolulu	Hawaii.
Wells Fargo Bank Northwest, N.A	Minneapolis	Minnesota.
Big Sky Western Bank	Bozeman	Montana.
First Security Bank	Bozeman	Montana.
Ravalli County Bank	Hamilton	Montana.
American Federal Savings Bank	Helena	Montana.
Glacier Bank of Kalispell	Kalispell	Montana.
First Security Bank	Malta	Montana.
Stockman Bank of Montana	Miles City	Montana.

Member	City	State
Glacier Bank of Whitefish	Whitefish	Montana.
Bank of Astoria	Astoria	Oregon.
Bank of Salem	Salem	Oregon.
Columbia River Bank	The Dalles	Oregon.
Cascade Bank	Everett	Washington.
Raymond Federal Bank	Raymond	Washington.
Evergreen Bank	Seattle	Washington.
Washington Federal Savings	Seattle	Washington.
Sterling Savings Bank	Spokane	Washington.
Buffalo Federal Savings Bank	Buffalo	Wyoming.
Hilltop National Bank	Casper	Wyoming.
Big Horn Federal Savings Bank	Greybull	Wyoming.

II. Public Comments

To encourage the submission of public comments on the community support performance of Bank members, on or before July 28, 2006, each Bank will notify its Advisory Council and nonprofit housing developers, community groups, and other interested parties in its district of the members selected for community support review in the 2006–07 second quarter review cycle. 12 CFR 944.2(b)(2)(ii). In reviewing a member for community support compliance, the Finance Board will consider any public comments it has received concerning the member. 12 CFR 944.2(d). To ensure consideration by the Finance Board, comments concerning the community support performance of members selected for the 2006–07 second quarter review cycle must be delivered to the Finance Board on or before the September 1, 2006 deadline for submission of Community Support Statements.

Dated: July 5, 2006.

John P. Kennedy,

General Counsel.

[FR Doc. E6–10779 Filed 7–13–06; 8:45 am]

BILLING CODE 6725–01–P

DEPARTMENT OF THE TREASURY

Office of the Comptroller of the Currency

FEDERAL RESERVE SYSTEM

FEDERAL DEPOSIT INSURANCE CORPORATION

Proposed Agency Information Collection Activities; Comment Request

AGENCIES: Office of the Comptroller of the Currency (OCC), Treasury; Board of Governors of the Federal Reserve System (Board); and Federal Deposit Insurance Corporation (FDIC).

ACTION: Joint notice and request for comment.

SUMMARY: In accordance with the requirements of the Paperwork Reduction Act of 1995 (44 U.S.C. chapter 35), the OCC, the Board, and the FDIC (the "agencies") may not conduct or sponsor, and the respondent is not required to respond to, an information collection unless it displays a currently valid Office of Management and Budget (OMB) control number. The Federal Financial Institutions Examination Council (FFIEC), of which the agencies are members, has approved the agencies' publication for public comment of a proposal to extend, with revision the Foreign Branch Report of Condition (FFIEC 030), which is a currently approved information collection for each agency. At the end of the comment period, the comments and recommendations received will be analyzed to determine the extent to which the FFIEC should modify the report. The agencies will then submit the report to OMB for review and approval.

DATES: Comments must be submitted on or before September 12, 2006.

ADDRESSES: Interested parties are invited to submit written comments to any or all of the agencies. All comments, which should refer to the OMB control number, will be shared among the agencies.

OCC: Communications Division, Office of the Comptroller of the Currency, Public Information Room, Mailstop 1–5, Attention: 1557–0099, 250 E Street, SW., Washington, DC 20219. In addition, comments may be sent by fax to 202–874–4448, or by electronic mail to *regs.comments@occ.treas.gov*. You can inspect and photocopy the comments at the OCC's Public Information Room, 250 E Street, SW., Washington, DC 20219. You can make an appointment to inspect the comments by calling 202–874–5043.

Board: You may submit comments, identified by FFIEC 030, by any of the following methods:

- Agency Web site: *http://www.federalreserve.gov*. Follow the instructions for submitting comments on the *http://www.federalreserve.gov/generalinfo/foia/ProposedRegs.cfm*.
- Federal eRulemaking Portal: *http://www.regulations.gov*. Follow the instructions for submitting comments.
- E-mail: *regs.comments@federalreserve.gov*. Include docket number in the subject line of the message.
- FAX: 202–452–3819 or 202–452–3102.
- Mail: Jennifer J. Johnson, Secretary, Board of Governors of the Federal Reserve System, 20th Street and Constitution Avenue, NW., Washington, DC 20551.

All public comments are available from the Board's Web site at *http://www.federalreserve.gov/generalinfo/foia/ProposedRegs.cfm* as submitted, unless modified for technical reasons. Accordingly, your comments will not be edited to remove any identifying or contact information. Public comments may also be viewed electronically or in paper in Room MP–500 of the Board's Martin Building (20th and C Streets, NW.) between 9 a.m. and 5 p.m. on weekdays.

FDIC: You may submit comments, which should refer to "Foreign Branch Report of Condition, 3064–0011," by any of the following methods:

- Agency Web site: *http://www.FDIC.gov/regulations/laws/federal/notices.html*.
- E-mail: *comments@FDIC.gov*. Include "Foreign Branch Report of Condition, 3064–0011" in the subject line of the message.
- Mail: Steven F. Hanft (202–898–3907), Paperwork Clearance Officer, Room MB–3064, Federal Deposit Insurance Corporation, 550 17th Street, NW., Washington, DC 20429.
- Hand Delivery: Comments may be hand delivered to the guard station at the rear of the 550 17th Street Building

(located on F Street) on business days between 7 a.m. and 5 p.m.

Public Inspection: All comments received will be posted without change to *http://www.fdic.gov/regulations/laws/federal/notices/html* including any personal information provided. Comments may be inspected at the FDIC Public Information Center, Room E–1002, 3502 North Fairfax Drive, Arlington, VA 22226, between 9 a.m. and 5 p.m. on business days.

Additionally, commenters should send a copy of their comments to the OMB Desk Officer for the Agencies by mail to the Office of Information and Regulatory Affairs, U.S. Office of Management and Budget, New Executive Office Building, Room 10235, 725 17th Street, NW., Washington, DC 20503 or by fax to 202–395–6974.

FOR FURTHER INFORMATION CONTACT:

OCC: Mary Gottlieb, OCC Clearance Officer, or Camille Dickerson, 202–874–5090, Legislative and Regulatory Activities Division, Office of the Comptroller of the Currency, 250 E Street, SW., Washington, DC 20219.

Board: Michelle Long, Federal Reserve Board Clearance Officer, 202–452–3829, Division of Research and Statistics, Board of Governors of the Federal Reserve System, 20th and C Streets, NW., Washington, DC 20551. Telecommunications Device for the Deaf (TDD) users may call 202–263–4869, Board of Governors of the Federal Reserve System, 20th and C Streets, NW., Washington, DC 20551.

FDIC: Steven F. Hanft, 202–898–3907, Room MB–3064, Legal Division, Federal Deposit Insurance Corporation, 550 17th Street, NW., Washington, DC 20429.

SUPPLEMENTARY INFORMATION: Proposal to request approval from OMB of the extension for three years, with revision, of the following currently approved collections of information:

Report Title: Foreign Branch Report of Condition.

Form Numbers: FFIEC 030 and FFIEC 030S.

Frequency of Response: Annually, and quarterly for significant branches.

Affected Public: Business or other for profit.

OCC

OMB Number: 1557–0099.

Estimated Number of Respondents: 118 annual branch respondents (FFIEC 030); 73 quarterly branch respondents (FFIEC 030); 200 annual branch respondents (FFIEC 030S).

Estimated Average Time Per Response: 3.4 burden hours (FFIEC 030); 0.5 burden hours (FFIEC 030S).

Estimated Total Annual Burden: 1,494 burden hours.

Board

OMB Number: 7100–0071.

Estimated Number of Respondents: 17 annual branch respondents (FFIEC 030); 16 quarterly branch respondents (FFIEC 030); 24 annual branch respondents (FFIEC 030S).

Estimated Average Time Per Response: 3.4 burden hours (FFIEC 030); 0.5 burden hours (FFIEC 030S).

Estimated Total Annual Burden: 288 burden hours.

FDIC

OMB Number: 3064–0011.

Estimated Number of Respondents: 6 annual respondents (FFIEC 030); 2 quarterly respondents (FFIEC 030); 7 annual respondents (FFIEC 030S).

Estimated Average Time Per Response: 3.4 burden hours (FFIEC 030); 0.5 burden hours (FFIEC 030S).

Estimated Total Annual Burden: 51 burden hours.

General Description of Reports

This information collection is mandatory: 12 U.S.C. 321, 324, and 602 (Board); 12 U.S.C. 602 (OCC); and 12 U.S.C. 1828 (FDIC). This information collection is given confidential treatment (5 U.S.C. 552(b)(8)).

Abstract

The FFIEC 030 contains asset and liability information for foreign branches of insured U.S. commercial banks and state-chartered savings banks and is required for regulatory and supervisory purposes. The information is used to analyze the foreign operations of U.S. banks. All foreign branches of U.S. banks regardless of charter type file this report with the appropriate Federal Reserve District Bank. The Federal Reserve collects this information on behalf of the U.S. bank's primary federal bank regulatory agency.

Current Actions

To reduce respondent burden, the agencies propose to eliminate five reporting items for branches with total assets in excess of $250 million, create a short form (FFIEC 030S) containing five items to be filed annually by branches with total assets of between $50 million and $250 million (in lieu of filing the entire FFIEC 030 form), and eliminate the filing requirement for branches with less than $50 million in total assets. Of the current number of 689 branch respondents, 231 branch respondents have total assets of between $50 million and $250 million and 226 respondents have less than $50 million in total assets.[1] Thus, under this proposal reporting burden would be significantly reduced or eliminated for approximately two-thirds of the respondents.

Discussion of Proposed Revisions

A. Revisions to the FFIEC 030

The agencies propose to reduce reporting burden by eliminating five reporting items for branches with total assets in excess of $250 million because the aggregate amounts reported in these items have declined substantially to a nominal amount. The five items to be eliminated are:

- Asset item 6.d, "Loans to foreign governments and official institutions." Amounts would be included in current item 6.e, "Loans and lease financing receivables: To all others."
- Asset item 7, "Customers' liability to this bank on acceptances outstanding." Amounts would be included in current item 13, "Other assets."
- Asset item 9, "Accrued interest receivable." Amounts would be included in current item 13, "Other assets."
- Liability item 19, "Bank's liability on acceptances executed and outstanding." Amounts would be included in current item 24, "Other liabilities."
- Liability item 20, "Accrued taxes and other expenses." Amounts would be included in current item 24, "Other liabilities."

The revisions to the FFIEC 030 reporting form are proposed to be effective with the December 31, 2006, reporting date.

B. Implementation of the FFIEC 030S

The agencies propose to create an abbreviated or "short" report (FFIEC 030S) containing five items that branches with total assets between $50 million and $250 million would file on an annual basis in lieu of the FFIEC 030 form. The scope of the FFIEC 030S would be comparable to a report filed with the Federal Reserve by U.S. banking organizations for their foreign subsidiaries.[2] The items proposed for this report are considered the minimum information needed to serve as indicators of higher business volume, risk, and complexity in small-sized foreign branches. The reported information would also be used to monitor potential developments that

[1] Respondents are permitted to report branches in a single country on a consolidated basis. Therefore, the number of branch respondents in each asset category does not equal the actual number of reports filed with the agencies.

[2] Abbreviated Financial Statements of Foreign Subsidiaries of U.S. Banking Organizations (FR 2314S; OMB No. 7100–0073), filed for subsidiaries with assets between $50 million and $250 million.

may pose risks to the overall operations of the parent bank. The items proposed for the FFIEC 030S are:

- Gross due from related institutions (a combination of current FFIEC 030 asset items 11 and 12).
- Total assets (current FFIEC 030 asset item 14).
- Gross due to related institutions (combination of current FFIEC 030 liability items 22 and 23).
- Total gross notional amount of derivative contracts (combination of current FFIEC 030 derivative items 26, 27, 28, and 31).
- Commercial and similar letters of credit, standby letters of credit, and foreign office guarantees (combination of current FFIEC 030 off-balance sheet items 29 and 30).

The FFIEC 030S reporting form is proposed to be effective with the December 31, 2006, reporting date.

C. Exempt Entities

The agencies propose to exempt foreign branches with total assets below $50 million from both the FFIEC 030 and FFIEC 030S annual filing requirements.

Request for Comment

Comments are invited on:

a. Whether the information collections are necessary for the agencies' duties and responsibilities, including whether the information has practical utility;

b. The accuracy of the agencies' estimate of the burden of the information collections, including the validity of the methodology and assumptions used;

c. Ways to enhance the quality, utility, and clarity of the information to be collected;

d. Ways to minimize the burden of the information collections on respondents, including through the use of automated collection techniques or other forms of information technology; and

e. Estimates of capital or start up costs and costs of operation, maintenance, and purchase of services to provide the requested information.

Comments submitted in response to this notice will be shared among the agencies. All comments will become a matter of public record. Written comments should address the accuracy of the burden estimates and ways to minimize burden including the use of automated collection techniques or the use of other forms of information technology as well as other relevant aspects of the information collection request.

Dated: June 27, 2006.

James Gillespie,

Deputy Chief Counsel, Office of the Comptroller of the Currency.

Board of Governors of the Federal Reserve System, July 10, 2006.

Jennifer J. Johnson,

Secretary of the Board.

Dated at Washington, DC, this 7th day of July, 2006.

Federal Deposit Insurance Corportation.

Robert E. Feldman,

Executive Secretary.

[FR Doc. 06–6228 Filed 7–13–06; 8:45 am]

BILLING CODE 4810–33–P; 6210–01–P; 6714–01–P

FEDERAL RESERVE SYSTEM

Change in Bank Control Notices; Acquisition of Shares of Bank or Bank Holding Companies

The notificants listed below have applied under the Change in Bank Control Act (12 U.S.C. 1817(j)) and § 225.41 of the Board's Regulation Y (12 CFR 225.41) to acquire a bank or bank holding company. The factors that are considered in acting on the notices are set forth in paragraph 7 of the Act (12 U.S.C. 1817(j)(7)).

The notices are available for immediate inspection at the Federal Reserve Bank indicated. The notices also will be available for inspection at the office of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank indicated for that notice or to the offices of the Board of Governors. Comments must be received not later than July 28, 2006.

A. Federal Reserve Bank of San Francisco (Tracy Basinger, Director, Regional and Community Bank Group) 101 Market Street, San Francisco, California 94105-1579:

1. The Banc Funds Company, L.L.C., Banc Fund V L.P, and Banc Fund VII L.P., all of Chicago, Illinois; to acquire voting shares of Valley Commerce Bancorp, and thereby indirectly acquire Valley Business Bank, both of Visalia, California.

Board of Governors of the Federal Reserve System, July 10, 2006.

Robert deV. Frierson,

Deputy Secretary of the Board.

[FR Doc. E6–11068 Filed 7–13–06; 8:45 am]

BILLING CODE 6210–01–S

FEDERAL RESERVE SYSTEM

Formations of, Acquisitions by, and Mergers of Bank Holding Companies

The companies listed in this notice have applied to the Board for approval, pursuant to the Bank Holding Company Act of 1956 (12 U.S.C. 1841 *et seq.*) (BHC Act), Regulation Y (12 CFR part 225), and all other applicable statutes and regulations to become a bank holding company and/or to acquire the assets or the ownership of, control of, or the power to vote shares of a bank or bank holding company and all of the banks and nonbanking companies owned by the bank holding company, including the companies listed below.

The applications listed below, as well as other related filings required by the Board, are available for immediate inspection at the Federal Reserve Bank indicated. The application also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the standards enumerated in the BHC Act (12 U.S.C. 1842(c)). If the proposal also involves the acquisition of a nonbanking company, the review also includes whether the acquisition of the nonbanking company complies with the standards in section 4 of the BHC Act (12 U.S.C. 1843). Unless otherwise noted, nonbanking activities will be conducted throughout the United States. Additional information on all bank holding companies may be obtained from the National Information Center website at *www.ffiec.gov/nic/*.

Unless otherwise noted, comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than August 7, 2006.

A. Federal Reserve Bank of Chicago (Patrick M. Wilder, Assistant Vice President) 230 South LaSalle Street, Chicago, Illinois 60690-1414:

1. Pedcor Capital, LLC, Carmel, Indiana; to become a bank holding company by acquiring 100 percent of the voting shares of Pedcor Bancorp, Carmel, Indiana, and thereby indirectly acquire voting shares of International City Bank, N.A., Long Beach, California.

B. Federal Reserve Bank of Dallas (W. Arthur Tribble, Vice President) 2200 North Pearl Street, Dallas, Texas 75201-2272:

1. Bryan Family Management Trust and Bryan–Heritage Limited Partnership, both of Bryan, Texas; to acquire additional shares, up to 51 percent, of the voting shares of The First National Bank of Bryan, Bryan, Texas.

Board of Governors of the Federal Reserve System, July 10, 2006.

Robert deV. Frierson,

Deputy Secretary of the Board.

[FR Doc. E6–11069 Filed 7–13–06; 8:45 am]

BILLING CODE 6210–01–S

FEDERAL RESERVE SYSTEM

Formations of, Acquisitions by, and Mergers of Bank Holding Companies

The companies listed in this notice have applied to the Board for approval, pursuant to the Bank Holding Company Act of 1956 (12 U.S.C. 1841 *et seq.*) (BHC Act), Regulation Y (12 CFR Part 225), and all other applicable statutes and regulations to become a bank holding company and/or to acquire the assets or the ownership of, control of, or the power to vote shares of a bank or bank holding company and all of the banks and nonbanking companies owned by the bank holding company, including the companies listed below.

The applications listed below, as well as other related filings required by the Board, are available for immediate inspection at the Federal Reserve Bank indicated. The application also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the standards enumerated in the BHC Act (12 U.S.C. 1842(c)). If the proposal also involves the acquisition of a nonbanking company, the review also includes whether the acquisition of the nonbanking company complies with the standards in section 4 of the BHC Act (12 U.S.C. 1843). Unless otherwise noted, nonbanking activities will be conducted throughout the United States. Additional information on all bank holding companies may be obtained from the National Information Center website at *www.ffiec.gov/nic/*.

Unless otherwise noted, comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than August 11, 2006.

A. Federal Reserve Bank of St. Louis (Glenda Wilson, Community Affairs Officer) 411 Locust Street, St. Louis, Missouri 63166-2034:

1. First Banks, Inc., Hazelwood, Missouri, and The San Francisco Company, San Francisco, California; to acquire 100 percent of the voting shares of TeamCo, Inc., Oak Lawn, Illinois, and thereby indirectly acquire Oak Lawn Bank, Oak Lawn, Illinois.

B. Federal Reserve Bank of Kansas City (Donna J. Ward, Assistant Vice President) 925 Grand Avenue, Kansas City, Missouri 64198-0001:

1. Ameri–National Corporation, Leawood, Kansas; to acquire 100 percent of the voting shares of Heritage Bank, National Association, Phoenix, Arizona, a *de novo* bank.

Board of Governors of the Federal Reserve System, July 11, 2006.

Robert deV. Frierson,

Deputy Secretary of the Board.

[FR Doc. E6–11162 Filed 7–13–06; 8:45 am]

BILLING CODE 6210–01–S

FEDERAL RESERVE SYSTEM

Notice of Proposals to Engage in Permissible Nonbanking Activities or to Acquire Companies that are Engaged in Permissible Nonbanking Activities

The companies listed in this notice have given notice under section 4 of the Bank Holding Company Act (12 U.S.C. 1843) (BHC Act) and Regulation Y (12 CFR Part 225) to engage *de novo*, or to acquire or control voting securities or assets of a company, including the companies listed below, that engages either directly or through a subsidiary or other company, in a nonbanking activity that is listed in § 225.28 of Regulation Y (12 CFR 225.28) or that the Board has determined by Order to be closely related to banking and permissible for bank holding companies. Unless otherwise noted, these activities will be conducted throughout the United States.

Each notice is available for inspection at the Federal Reserve Bank indicated. The notice also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether the proposal complies with the standards of section 4 of the BHC Act. 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 the applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than August 11, 2006.

A. Federal Reserve Bank of Richmond (A. Linwood Gill, III, Vice President) 701 East Byrd Street, Richmond, Virginia 23261-4528:

1. Wachovia Corporation, Charlotte, North Carolina; to acquire 100 percent of the voting shares of Golden West Financial Corporation, Oakland, California, and thereby indirectly acquire voting shares of World Savings Bank, FSB, Oakland, California, and thereby indirectly acquire voting shares of World Savings Bank, FSB (Texas), Houston, Texas, and engage in operating a savings association; Atlas Advisors, Inc., San Leandro, California, and engage in investment advisory activities; Atlas Securities, Inc., San Leandro, California, and engage in securities brokerage services; and World Mortgage Investors, Inc., Rockville, Maryland, and engage in extending credit and servicing loans, all pursuant to sections 225.28(b)(1), (b)(4)(ii); (b)(6)(i); and (b)(7)(i) of Regulation Y, respectively.

Board of Governors of the Federal Reserve System, July 11, 2006.

Robert deV. Frierson,

Deputy Secretary of the Board.

[FR Doc. E6–11163 Filed 7–13–06; 8:45 am]

BILLING CODE 6210–01–S

FEDERAL TRADE COMMISSION

[File No. 051 0263]

Hologic, Inc.; Analysis of Agreement Containing Consent Order To Aid Public Comment

AGENCY: Federal Trade Commission.

ACTION: Proposed Consent Agreement.

SUMMARY: The consent agreement in this matter settles alleged violations of Federal law prohibiting unfair or deceptive acts or practices or unfair methods of competition. The attached Analysis to Aid Public Comment describes both the allegations in the draft complaint and the terms of the consent order—embodied in the consent agreement—that would settle these allegations.

DATES: Comments must be received on or before August 5, 2006.

ADDRESSES: Interested parties are invited to submit written comments. Comments should refer to "Hologic, Inc., File No. 051 0263," to facilitate the organization of comments. A comment filed in paper form should include this reference both in the text and on the envelope, and should be mailed or delivered to the following address: Federal Trade Commission/Office of the Secretary, Room 135–H, 600 Pennsylvania Avenue, NW., Washington, DC 20580. Comments containing confidential material must be filed in paper form, must be clearly labeled "Confidential," and must comply with Commission Rule 4.9(c). 16 CFR 4.9(c) (2005).[1] The FTC is

[1] The comment must be accompanied by an explicit request for confidential treatment, including the factual and legal basis for the request, and must identify the specific portions of the comment to be withheld from the public record.

requesting that any comment filed in paper form be sent by courier or overnight service, if possible, because U.S. postal mail in the Washington area and at the Commission is subject to delay due to heightened security precautions. Comments that do not contain any nonpublic information may instead be filed in electronic form as part of or as an attachment to email messages directed to the following e-mail box: *consentagreement@ftc.gov*.

The FTC Act and other laws the Commission administers permit the collection of public comments to consider and use in this proceeding as appropriate. All timely and responsive public comments, whether filed in paper or electronic form, will be considered by the Commission, and will be available to the public on the FTC Web site, to the extent practicable, at *http://www.ftc.gov*. As a matter of discretion, the FTC makes every effort to remove home contact information for individuals from the public comments it receives before placing those comments on the FTC Web site. More information, including routine uses permitted by the Privacy Act, may be found in the FTC's privacy policy, at *http://www.ftc.gov/ftc/privacy.htm*.

FOR FURTHER INFORMATION CONTACT: Jeffrey H. Perry, Bureau of Competition, 600 Pennsylvania Avenue, NW., Washington, DC 20580, (202) 326–2331.

SUPPLEMENTARY INFORMATION: Pursuant to section 6(f) of the Federal Trade Commission Act, 38 Stat. 721, 15 U.S.C. 46(f), and § 2.34 of the Commission Rules of Practice, 16 CFR 2.34, notice is hereby given that the above-captioned consent agreement containing a consent order to cease and desist, having been filed with and accepted, subject to final approval, by the Commission, has been placed on the public record for a period of thirty (30) days. The following Analysis to Aid Public Comment describes the terms of the consent agreement, and the allegations in the complaint. An electronic copy of the full text of the consent agreement package can be obtained from the FTC Home Page (for July 7, 2006), on the World Wide Web, at *http://www.ftc.gov/os/2006/07/index.htm*. A paper copy can be obtained from the FTC Public Reference Room, Room 130–H, 600 Pennsylvania Avenue, NW., Washington, DC 20580, either in person or by calling (202) 326–2222.

Public comments are invited, and may be filed with the Commission in either paper or electronic form. All comments should be filed as prescribed in the **ADDRESSES** section above, and must be received on or before the date specified in the **DATES** section.

Analysis of Agreement Containing Consent Order To Aid Public Comment

I. Introduction

The Federal Trade Commission ("Commission") has accepted, subject to final approval, an Agreement Containing Consent Order ("Consent Agreement") from Hologic, Inc. ("Hologic"). The purpose of the proposed Consent Agreement is to remedy the competitive harm resulting from Hologic's consummated acquisition of certain assets of Fischer Imaging Corporation ("Fischer"). Under the terms of the proposed Consent Agreement, Hologic is required to divest to Siemens AG ("Siemens") all assets it acquired from Fischer relating to Fischer's prone stereotactic breast biopsy system ("prone SBBS") business.

The proposed Consent Agreement has been placed on the public record for thirty days to solicit comments from interested persons. Comments received during this period will become part of the public record. After thirty days, the Commission will again review the proposed Consent Agreement and the comments received, and will decide whether it should withdraw the proposed Consent Agreement or make it final.

On September 29, 2005, Hologic paid $32 million to acquire substantially all of Fischer's intellectual property and certain other assets relating to its mammography and breast biopsy businesses, including the patents, trademarks, customer lists, and vendor lists relating to Fischer's prone SBBS product, MammoTest ("Acquisition"). As a result of the Acquisition, Fischer—the only significant competitor to Hologic in the U.S. market for prone SBBSs—relinquished all rights to develop, manufacture, market, and sell prone SBBSs in the United States. The Commission's complaint alleges that the Acquisition violated section 7 of the Clayton Act, as amended, 15 U.S.C. 18, and section 5 of the Federal Trade Commission Act, as amended, 15 U.S.C. 45, by eliminating Hologic's only significant competitor in the U.S. market for prone SBBSs. The proposed Consent Agreement would restore the competition eliminated by the Acquisition by ensuring the prompt competitive viability of Siemens as an additional supplier of prone SBBSs in the United States.

II. The Parties

Hologic is a developer, manufacturer, and marketer of diagnostic and imaging medical devices. Its chief product areas are mammography equipment, breast biopsy systems (including the MultiCare Platinum prone SBBS), and bone densitometry equipment. In 2005, Hologic reported worldwide revenues of approximately $288 million.

Prior to the Acquisition, Fischer was actively involved in developing, manufacturing, and marketing equipment used in the screening and diagnosis of breast cancer. The company's chief products were its SenoScan digital mammography system and its MammoTest prone SBBS. In 2004, Fischer reported revenues of approximately $64 million. For the first nine months of 2005, prior to the Acquisition, Fischer reported revenues of $39 million.

III. Prone SBBSs

A prone SBBS is an integrated system that allows a physician to conduct a highly precise, minimally-invasive breast biopsy using x-ray guidance. During the procedure, the patient lies prone on a table with her breast suspended through an aperture in the table. With the patient's breast compressed, the physician utilizes the system's x-ray imaging to guide a needle to the precise location of the suspected lesion and extracts small tissue samples for diagnosis. The entire procedure is conducted beneath the table and is obscured from the patient's view.

There are several other methods of performing breast biopsies, including open surgical biopsies and other types of minimally-invasive systems. None of these other methods, however, are viable economic substitutes for prone SBBSs. Indeed, most hospitals have the capability to perform breast biopsies using multiple methods to ensure that the most appropriate system is used for each procedure.

Surgical biopsies were once the only method of biopsying breast tissue, but these procedures have declined significantly in popularity in response to the availability of newer, minimally-invasive, biopsy systems. Minimally-invasive biopsies provide accurate diagnosis while avoiding the economic costs and patient hardship associated with surgical breast biopsies. Surgical breast biopsies are performed under general anesthesia, require a longer hospital stay, and result in noticeable scarring. For these reasons, surgical procedures are typically performed only in circumstances in which none of the minimally-invasive alternatives is

The request will be granted or denied by the Commission's General Counsel, consistent with applicable law and the public interest. *See* Commission Rule 4.9(c), 16 CFR 4.9(c).

appropriate or available. An ability to perform surgical breast biopsies does not provide a meaningful competitive restraint on the exercise of market power by a prone SBBS monopolist.

There are two other types of minimally-invasive breast biopsy systems: ultrasound and magnetic resonance ("MR") systems. These systems are complementary treatment modalities, however, and are not competitive substitutes for a prone SBBS. Ultrasound-guided breast biopsies are the most prevalent type of minimally-invasive breast biopsy performed in the United States, and are typically used to biopsy suspicious masses. Ultrasound systems are not well suited for visualizing lesions called microcalcifications, however, and patients with this type of lesion are typically sent for biopsy using a prone SBBS. MR breast biopsy systems are currently considered a niche technology, and are significantly more expensive than prone SBBSs. Further, MR biopsies are cumbersome and time consuming compared to biopsies performed with a prone SBBS. Thus, MR-guided systems are used infrequently, and only in cases for which ultrasound or stereotactic systems would not be appropriate.

Stereotactic breast biopsies may also be performed using an "upright" system, which consists of a biopsy unit that attaches to an existing mammography system. There are significant disadvantages associated with using upright systems as compared to prone SBBS procedures, including reduced comfort and a risk of vasovagal reactions (fainting). These problems result from the fact that an upright system performs the biopsy in plain view of the patient. Also, upright systems occupy a mammography machine that could otherwise be used to conduct mammograms, thereby reducing the number of screening mammographies that can be performed in a given day. This makes upright systems a particularly unattractive option for a breast care center that has a significant patient volume. For these reasons, even though upright systems are much less expensive, they are not used commonly in the United States, and do not provide meaningful competition to prone SBBS suppliers.

The relevant geographic market in which to analyze the effects of the Acquisition is the United States. Prone SBBSs are medical devices, and thus cannot be marketed or sold in the United States without prior approval by the United States Food and Drug Administration ("FDA"). Further, a firm wishing to sell prone SBBSs in the United States must establish a local sales and service organization and must not infringe any U.S. patents.

IV. Competitive Effects and Entry Conditions

Fischer pioneered the prone SBBS market when it introduced its MammoTest product in the late 1980s. In 1992, Lorad, a company subsequently acquired by Hologic, introduced the MultiCare prone SBBS to the U.S. market as the first competitor to MammoTest. Over the next fourteen years, Hologic's MultiCare and Fischer's MammoTest competed head-to-head in the U.S. market, with each firm supplying approximately fifty percent of the U.S. market for prone SBBSs. This competition directly benefitted U.S. consumers in the form of lower prices, better service, and product innovations. Evidence gathered in the Commission's investigation demonstrates that, prior to the acquisition, customers received lower prices and other economic benefits such as extended warranties and favorable service or payment terms as a result of the competition between Hologic and Fischer. The evidence also shows that the competition between the two companies has resulted in product improvements, including higher resolution detectors and improved software for image manipulation and storage. Since the Acquisition in September 2005, Hologic has enjoyed a virtual monopoly in the U.S. prone SBBS market.

The only other firm that sells a prone SBBS in the United States is Giotto USA. Giotto currently is not a significant competitor, however, having achieved minimal sales in the three years during which its product has been available in the United States. It is unlikely that Giotto could significantly expand its U.S. sales because it does not have access to critical prone SBBS patents, and in any event lacks the necessary infrastructure, track record, product acceptance, and resources to do so.

There is little prospect for new entry into the U.S. prone SBBS market. The strength and breadth of Hologic's patent portfolio, including the patents it acquired from Fischer, insulate the U.S. prone SBBS market from entry. In fact, no company has ever had a meaningful impact on the U.S. prone SBBS market without access to these critical patents. Hologic's MultiCare product, the only prone SBBS ever to compete effectively with Fischer's MammoTest, was able to compete in the U.S. market only by virtue of a license to the Fischer patents that Hologic acquired as part of the settlement of patent infringement litigation. In addition to the intellectual property barriers to-entry, potential entrants must contend with the research, development, and regulatory hurdles that companies seeking to market medical devices typically face. Finally, a new entrant would also need to develop manufacturing capability and potentially recruit and train a local sales force in order to gain market acceptance and have an impact on price in the U.S. prone SBBS market.

V. The Proposed Consent Agreement

The proposed Consent Agreement effectively remedies the competitive harm that resulted from the Acquisition. Pursuant to the proposed Consent Agreement, Hologic is required to divest to Siemens all of the prone SBBS-related assets it acquired from Fischer no later than five (5) days after the Consent Agreement is accepted for public comment. Hologic will retain a license to Fischer's prone SBBS patents to ensure that Hologic can continue to compete in the U.S. prone SBBS market after the divestiture.

Siemens is particularly well-positioned to manufacture and sell prone SBBSs in the United States. Siemens is one of the world's largest public corporations, with 461,000 employees and over 600 manufacturing plants, research facilities and sales offices worldwide. Siemens Medical Solutions Group is a worldwide leader in medical imaging, with product offerings including angiography, fluoroscopy, magnetic resonance imaging, ultrasound, and mammography. As an established supplier of breast cancer related imaging products, Siemens has earned a strong reputation in the field of breast cancer screening and detection, and already has a domestic sales and service network in place to make it a vigorous prone SBBS competitor. Further, although it already has a mammography business, Siemens does not currently compete in the prone SBBS market, and thus does not present any competitive problems as an acquirer of the divested assets.

If the Commission determines that Siemens is not an acceptable purchaser, or that the manner of the divestiture is not acceptable, Hologic must unwind the sale and divest the prone SBBS assets within six (6) months of the date the Order becomes final to another Commission-approved acquirer. If Hologic fails to divest within that time frame, the Commission may appoint a trustee to divest the prone SBBS assets.

The purpose of this analysis is to facilitate public comment on the Consent Agreement, and it is not

intended to constitute an official interpretation of the Consent Agreement or to modify its terms in any way.

By direction of the Commission.

Donald S. Clark,

Secretary.

[FR Doc. E6–11070 Filed 7–13–06; 8:45 am]

BILLING CODE 6750–01–P

GENERAL SERVICES ADMINISTRATION

Notice of Availability of the Release of the Record of Decision

AGENCY: Public Buildings Service, GSA.

ACTION: Notice of Availability

SUMMARY: The U.S. General Service Administration (GSA) hereby gives notice of a Record of Decision that has been issued as a part of the Peace Arch Port of Redevelopment Project NEPA (National Environmental Policy Act) statement that was conducted over 2004 - 2006.

An Environmental Impact Statement was conducted with significant input from the public with many public meetings. A ROD is the last step for this project under the NEPA process.

FOR FURTHER INFORMATION CONTACT: The ROD is on file with GSA and a copy can be obtained by contacting: Michael Levine, Regional Environmental Program Analyst, US General Services Administration, 400 – 15th St. SW., 10PTP, Auburn, WA 98001. He may also be contacted by phone at (253) 931–7263, by fax at (253) 931–7308, or e-mail at *Michael.levin@gsa.gov.*

Dated: July 5, 2006.

Jon Kvistad

Regional Administrator, Region 10

[FR Doc. E6–11041 Filed 7–13–06; 8:45 am]

BILLING CODE 6820–A7–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of the National Coordinator; American Health Information Community Meeting

ACTION: Announcement of meeting.

SUMMARY: This notice announces the seventh meeting of the American Health Information Community in accordance with the Federal Advisory Committee Act (Pub. L. No. 92–463, 5 U.S.C., App.) The American Health Information Community will advise the Secretary and recommend specific actions to achieve a common interoperability framework for health information technology (IT).

DATES: August 1, 2006 from 8:30 a.m. to 1 p.m.

ADDRESSES: Hubert H. Humphrey building (200 Independence Avenue, SW., Washington, DC 20201), Conference Room 800.

FOR FURTHER INFORMATION CONTACT: Visit *http://www.hhs.gov/healthit/ahic.html.*

SUPPLEMENTARY INFORMATION: A Web cast of the Community meeting will be available on the NIH Web site at: *http://www.videocast.nih.gov/.*

If you have special needs for the meeting, please contact (202) 690–7151.

Dated: July 10, 2006.

Judith Sparrow,

Director, American Health Information Community, Office of Programs and Coordination, Office of the National Coordinator.

[FR Doc. 06–6229 Filed 7–13–05; 8:45 am]

BILLING CODE 4150–24–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of the National Coordinator; American Health Information Community Biosurveillance Workgroup Meeting

ACTION: Announcement of meeting.

SUMMARY: This notice announces the seventh meeting of the American Health Information Community Biosurveillance Workgroup in accordance with the Federal Advisory Committee Act (Pub. L. 92–463, 5 U.S.C., App.).

DATES: July 24, 2006 from 1 p.m. to 4 p.m.

ADDRESSES: Mary C. Switzer Building (330 C Street, SW., Washington, DC 20201), Conference Room 4090.

FOR FURTHER INFORMATION CONTACT: *http://www.hhs.gov/healthit/ahic/bio_main.html.*

SUPPLEMENTARY INFORMATION: The meeting will be available via Web cast at *http://www.eventcenterlive.com/cfmx/ec/login/login1.cfm?BID=67.*

Dated: July 10, 2006.

Judith Sparrow,

Director, American Health Information Community, Office of Programs and Coordination, Office of the National Coordinator.

[FR Doc. 06–6230 Filed 7–13–06; 8:45 am]

BILLING CODE 4150–24–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of the National Coordinator; American Health Information Community Electronic Health Records Workgroup Meeting

ACTION: Announcement of meeting.

SUMMARY: This notice announces the seventh meeting of the American Health Information Community Electronic Health Records Workgroup in accordance with the Federal Advisory Committee Act (Pub. L. 92–463, 5 U.S.C., App.).

DATES: July 25, 2006 from 1 p.m. to 3 p.m.

ADDRESSES: Mary C. Switzer Building (330 C Street, SW., Washington, DC 20201), Conference Room 4090.

FOR FURTHER INFORMATION CONTACT: *http://www.hhs.gov/healthit/ahic/ehr_main.html.*

SUPPLEMENTARY INFORMATION: The meeting will be available via Web cast at *http://www.eventcenterlive.com/cfmx/ec/login/login1.cfm?BID=67.*

Dated: July 10, 2006.

Judith Sparrow,

Director, American Health Information Community, Office of Programs and Coordination, Office of the National Coordinator.

[FR Doc. 06–6231 Filed 7–13–06; 8:45 am]

BILLING CODE 4150–24–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of the National Coordinator; American Health Information Community Chronic Care Workgroup Meeting

ACTION: Announcement of meeting.

SUMMARY: This notice announces the seventh meeting of the American Health Information Community Chronic Care Workgroup in accordance with the Federal Advisory Committee Act (Pub. L. 92–463, 5 U.S.C., App.).

DATES: July 26, 2006 from 1 p.m. to 3 p.m.

ADDRESSES: Mary C. Switzer Building (330 C Street, SW., Washington, DC 20201), Conference Room 4090.

FOR FURTHER INFORMATION CONTACT: *http://www.hhs.gov/healthit/ahic/bio_main.html.*

SUPPLEMENTARY INFORMATION: The meeting will be available via Web cast at *http://www.eventcenterlive.com/cfmx/ec/login/login1.cfm?BID=67.*

Dated: July 10, 2006.

Judith Sparrow,

Director, American Health Information Community, Office of Programs and Coordination, Office of the National Coordinator.

[FR Doc. 06–6232 Filed 7–13–06; 8:45 am]

BILLING CODE 4150–24–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

Safety and Occupational Health Study Section: Notice of Charter Renewal

This gives notice under the Federal Advisory Committee Act (Pub. L. 92–463) of October 6, 1972, that the Safety and Occupational Health Study Section, Centers for Disease Control and Prevention, Department of Health and Human Services, has been renewed for a 2-year period through June 30, 2008.

For information, contact Dr. Price Connor, Executive Secretary, Safety and Occupational Health Study Section, Centers for Disease Control and Prevention, Department of Health and Human Services, 1600 Clifton Road, NE., Mailstop E74, Atlanta, Georgia 30333, telephone 404/498–2511 or fax 404/498–2571.

The Director, Management Analysis and Services Office, has been delegated the authority to sign **Federal Register** notices pertaining to announcements of meetings and other committee management activities, for both the Centers for Disease Control and Prevention and the Agency for Toxic Substances and Disease Registry.

Dated: July 7, 2006.

Alvin Hall,

Director, Management Analysis and Services Office, Centers for Disease Control and Prevention.

[FR Doc. E6–11095 Filed 7–13–06; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

Study Team for the Los Alamos Historical Document Retrieval and Assessment (LAHDRA) Project

AGENCY: The Centers for Disease Control and Prevention (CDC) and the Agency for Toxic Substances and Disease Registry (ATSDR), HHS.

ACTION: Notice of meeting.

NAME: Public Meeting of the Study Team for the Los Alamos Historical Document Retrieval and Assessment Project.

TIME AND DATE: 5 p.m.–7 p.m., (mountain time), Wednesday, July 26, 2006.

PLACE: Homewood Suites at the Buffalo Thunder Road exit in Pojoaque (15 miles north of Santa Fe on U.S. 84/285), 18 Buffalo Trail, Santa Fe, New Mexico 87506, telephone 505–455–9100.

STATUS: Open to the public, limited only by the space available. The meeting room accommodates approximately 50 people.

BACKGROUND: Under a Memorandum of Understanding (MOU) signed in December 1990 with the Department of Energy (DOE) and replaced by MOUs signed in 1996 and 2000, the Department of Health and Human Services (HHS) was given the responsibility and resources for conducting analytic epidemiologic investigations of residents of communities in the vicinity of DOE facilities, workers at DOE facilities, and other persons potentially exposed to radiation or to potential hazards from non-nuclear energy production use. HHS delegated program responsibility to CDC.

In addition, a memo was signed in October 1990 and renewed in November 1992, 1996, and in 2000, between the Agency for Toxic Substances and Disease Registry (ATSDR) and DOE. The MOU delineates the responsibilities and procedures for ATSDR's public health activities at DOE sites required under sections 104, 105, 107, and 120 of the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA or "Superfund"). These activities include health consultations and public health assessments at DOE sites listed on, or proposed for, the Superfund National Priorities List and at sites that are the subject of petitions from the public; and other health-related activities such as epidemiologic studies, health surveillance, exposure and disease registries, health education, substance-specific applied research, emergency response, and preparation of toxicological profiles.

PURPOSE: This study group is charged with locating, evaluating, cataloguing, and copying documents that contain information about historical chemical or radionuclide releases from facilities at the Los Alamos National Laboratory since its inception. The purpose of this meeting is to review the goals, methods, and schedule of the project, discuss progress to date, provide a forum for community interaction, and serve as a vehicle for members of the public to express concerns and provide advice to CDC.

MATTERS TO BE DISCUSSED: Agenda items include a presentation from the National Center for Environmental Health (NCEH) and its contractor regarding the status of project work and a summary of recent activities, such as completion of reviews of some key document collections, an investigation of early plutonium processing in D Building during World War II, and launching of a new project information database. There will be time for public input, questions, and comments. All agenda items are subject to change as priorities dictate.

FOR FURTHER INFORMATION CONTACT: Phillip R. Green, Public Health Advisor, Radiation Studies Branch, Division of Environmental Hazards and Health Effects, NCEH, CDC, 1600 Clifton Road, NE. (MS–E39), Atlanta, GA 30333, telephone 404/498–1717, fax 404/498–1811, or e-mail address: *prg1@cdc.gov.*

Dated: July 6, 2006.

James D. Seligman,

Chief Information Officer, Centers for Disease Control and Prevention.

[FR Doc. E6–11097 Filed 7–13–06; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

[Document Identifier: CMS–10205]

Emergency Clearance: Public Information Collection Requirements Submitted to the Office of Management and Budget (OMB)

AGENCY: Center for Medicare & Medicaid Services, HHS.

In compliance with the requirement of section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Centers for Medicare & Medicaid Services (CMS), Department of Health and Human Services, is publishing the following summary of proposed collections for public comment. Interested persons are invited to send comments regarding this burden estimate or any other aspect of this collection of information, including any of the following subjects: (1) The necessity and utility of the proposed information collection for the proper performance of the agency's functions; (2) the accuracy of the estimated burden; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) the use of automated collection techniques or

other forms of information technology to minimize the information collection burden.

We are, however, requesting an emergency review of the information collection referenced below. In compliance with the requirement of section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, we have submitted to the Office of Management and Budget (OMB) the following requirements for emergency review. We are requesting an emergency review because the collection of this information is needed before the expiration of the normal time limits under OMB's regulations at 5 CFR part 1320. If these events do not occur according to the statutorily mandated timeline, other statutory requirements will not be able to be met. Section 6001(c) of the Deficit Reduction Act of 2005 (DRA) requires CMS and the Office of Inspector General to analyze and, if appropriate, redefine the Average Manufacturer Price (AMP). We have determined that this information collection is needed because we do not currently collect the necessary data needed to perform the AMP data analysis as mandated by the DRA.

1. *Type of Information Collection Request:* New collection; *Title of Information Collection:* Voluntary Sample Average Manufacturer Price (AMP) Collection; *Use:* Section 1927 of the Social Security Act requires each participating drug manufacturer to report quarterly product and pricing information to CMS. The DRA modified parts of Section 1927 to require that AMP be analyzed and redefined; *Form Number:* CMS–10205 (OMB#: 0938-NEW); *Frequency:* Reporting—As needed; *Affected Public:* Business or other for-profit; *Number of Respondents:* 550; *Total Annual Responses:* 550; Total Annual Hours: 11,000.

CMS is requesting OMB review and approval of this collection by July 31, 2006, with a 180-day approval period. Written comments and recommendation will be considered from the public if received by the individuals designated below by *July 29, 2006.*

To obtain copies of the supporting statement and any related forms for the proposed paperwork collections referenced above, access CMS' Web Site address at *http://www.cms.hhs.gov/regulations/pra* or E-mail your request, including your address, phone number, OMB number, and CMS document identifier, to *Paperwork@cms.hhs.gov*, or call the Reports Clearance Office on (410) 786–1326.

Interested persons are invited to send comments regarding the burden or any other aspect of these collections of information requirements. However, as noted above, comments on these information collection and recordkeeping requirements must be mailed and/or faxed to the designees referenced below by *July 29, 2006*:

CMS, Office of Strategic Operations and Regulatory Affairs, Division of Regulations Development—A, Attn: Melissa Musotto (CMS–10205), Room C4–26–05, 7500 Security Boulevard, Baltimore, MD 21244–1850

and,

OMB Human Resources and Housing Branch, Attention: Katherine Astrich, New Executive Office Building, Room 10235, Washington, DC 20503. Fax Number: (202) 395–6974.

Dated: July 10, 2006.

Michelle Shortt,

Director, Regulations Development Group, Office of Strategic Operations and Regulatory Affairs.

[FR Doc. 06–6191 Filed 7–10–06; 1:18 pm]

BILLING CODE 4120–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

Proposed Information Collection Activity; Comment Request

Proposed Projects

Title: Early Head Start Research and Evaluation Project: 5th Grade Follow-Up.

OMB No.: 0970–0143.

Description: The Administration for Children and Families (ACF) within the Department of Health and Human Services (HHS) is requesting comments on plans to collect 5th-grade follow-up data on children recruited into the Early Head Start Research and Evaluation study. This study is being conducted to assess children and families when the children in the study will be 5th graders or attending the 6th year of their formal schooling. Because of the way children and families were initially recruited for the study, it will take three years to collect 5th-grade data from the full sample of children. About 30 percent of the sample will be 5th graders in spring 2007, 50 percent in spring 2008, and 20 percent in spring 2009. Data will be collected on a sample of approximately 1,900 children and families across all 17 of the Early Head Start research sites. Data collection will include a child assessment and a child interview, an interview with the child's primary caregiver (usually the child's mother), videotaping of mother-child interactions and a set of home observations, and a questionnaire to be completed by the child's 5th-grade teacher.

This data collection is necessitated by the mandates of the 1998 reauthorization of Head Start (Head Start Act, as amended, October 27, 1998, Section 649(d) and (e)).

Respondents: Individuals or households.

ANNUAL BURDEN ESTIMATES

Instrument	Number of respondents	Number of responses per respondent	Average burden hours per response	Total burden hours
Year 1 (2007):				
Parent Interview	570	1	1.00	570
Child Assessment	570	1	1.16	661
Child Interview	570	1	0.25	143
Mother-Child Interaction	1,140	1	0.25	285
Teacher Questionnaire	570	1	0.50	285
Year 1 Total	3,420			1,944
Year 2 (2008):				
Parent Interview	950	1	1.00	950
Child Assessment	950	1	1.16	1,102
Child Interview	950	1	0.25	238

ANNUAL BURDEN ESTIMATES—Continued

Instrument	Number of respondents	Number of responses per respondent	Average burden hours per response	Total burden hours
Mother-Child Interaction	1,900	1	0.25	475
Teacher Questionnaire	950	1	0.50	475
Year 2 Total	5,700			3,240
Year 3 (2009):				
Parent Interview	380	1	1.00	380
Child Assessment	380	1	1.16	441
Child Interview	380	1	0.25	95
Mother-Child Interaction	760	1	0.25	190
Teacher Questionnaire	380	1	0.50	190
Year 3 Total	2,280			1,296

Estimated Total Burden Hours: 6,480.

In compliance with the requirements of Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Administration for Children and Families is soliciting public comment on the specific aspects of the information collection described above. Copies of the proposed collection of information can be obtained and comments may be forwarded by writing to the Administration for Children and Families, Office of Administration, Office of Information Services, 370 L'Enfant Promenade, SW., Washington, DC 20447, Attn: ACF Reports Clearance Officer. E-mail address: *infocollection@acf.hhs.gov.* All requests should be identified by the title of the information collection.

The Department specifically requests comments on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. Consideration will be given to comments and suggestions submitted within 60 days of this publication.

Dated: July 10, 2006.

Robert Sargis,

Reports Clearance Officer.

[FR Doc. 06–6227 Filed 7–13–06; 8:45 am]

BILLING CODE 4184–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

Privacy Act of 1974, as Amended; Computer Matching Program

AGENCY: ACF, HHS.

ACTION: Notice of a computer matching program.

SUMMARY: In compliance with the Privacy Act of 1974, as amended by Pub. L. 100–503, the Computer Matching and Privacy Protection Act of 1988, we are publishing a notice of a computer matching program. The purpose of this computer match is to identify specific individuals who are receiving benefits from the VA and also receiving payments pursuant to various benefit programs administered by both HHS and Department of Agriculture. ACF will facilitate this program on behalf of the State Public Assistance Agencies (SPAAs) that participate in the Public Assistance Reporting Information System (PARIS) for verification of continued eligibility for public assistance. The match will utilize Department of Veterans Affairs (VA) records and SPAA records.

DATES: ACF will file a report of the subject matching program with the Committee on Homeland Security and Governmental Affairs of the Senate and the Committee on Government Reform of the House of Representatives, and the Office of Information and Regulatory Affairs within the Office of Management and Budget (OMB). The dates for the matching program will be effective as indicated below.

ADDRESSES: Interested parties may comment on this notice by writing to the Director, Office of Financial Services, Office of Administration, 370 L'Enfant Promenade, SW., Washington, DC 20047. All comments received will be available for public inspection at this address.

FOR FURTHER INFORMATION CONTACT: Director, Office of Financial Services, Office of Administration, 370 L'Enfant Promenade, SW., Washington, DC 20047. Telephone Number (202) 401–7237.

SUPPLEMENTARY INFORMATION: Pub. L. 100–503, the Computer Matching and Privacy Protection Act of 1988, amended the Privacy Act (5 U.S.C. 552a) by adding certain protections for individuals applying for and receiving federal benefits. The law regulates the use of computer matching by federal agencies when records in a system of records are matched with other federal, state and local government records.

Federal agencies which provide or receive records in computer matching programs must:

1. Negotiate written agreements with source agencies;
2. Provide notification to applicants and beneficiaries that their records are subject to matching;
3. Verify match findings before reducing, suspending, or terminating an individual's benefits or payments;
4. Furnish detailed reports to Congress and OMB; and,
5. Establish a Data Integrity Board that must approve matching agreements.

This computer matching program meets the requirements of Pub. L. 100–503.

Dated: June 21, 2006.

Curtis L. Coy,

Deputy Assistant Secretary for Administration, ACF.

Notice of Computer Matching Program

A. Participating Agencies

VA and the SPAAs.

B. Purpose of the Match

To identify specific individuals who are receiving benefits from VA and also

receiving payments pursuant to HHS and Department of Agriculture benefit programs, and to verify their continued eligibility for such benefits. SPAAs will contact affected individuals and seek to verify the information resulting from the match before initiating any adverse actions based on the match results.

C. Authority for Conducting the Match

The authority for conducting the matching program is contained in section 402(a)(6) of the Social Security Act [42 U.S.C. 602(a)(6)].

D. Records To Be Matched

VA will disclose records from its Privacy Act system of records entitled "Compensation, Pension, Education and Rehabilitation Records." (58 VA 21/22 first published at 41 FR 9294 (March 3, 1976), and last amended at 70 FR 34186 (June 13, 2005)). VA's disclosure of information for use in this computer match is listed as a routine use in this system of records.

VA, as the source agency, will prepare electronic files containing the names and other personal identifying data of eligible veterans receiving benefits. These records are matched electronically against SPAA files consisting of data regarding monthly Medicaid, Temporary Assistance to Needy Families (TANF), general assistance, and Food Stamp beneficiaries.

1. The electronic files provided by the SPAAs will contain client names and Social Security numbers (SSNs.)

2. The resulting output returned to the SPAAs will contain personal identifiers, including names, SSNs, employers, current work or home addresses, etc.

E. Inclusive Dates of the Matching Program

The effective date of the matching agreement and date when matching may actually begin shall be at the expiration of the 40-day review period for OMB and Congress, or 30 days after publication of the matching notice in the **Federal Register**, whichever date is later. The matching program will be in effect for 18 months from the effective date, with an option to renew for 12 additional months, unless one of the parties to the agreement advises the others by written request to terminate or modify the agreement.

[FR Doc. 06–6226 Filed 7–13–06; 8:45 am]
BILLING CODE 4184–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket Nos. 2005P–0300 and 2005P–0319]

Determination That PHENERGAN (Promethazine Hydrochloride) Tablets, 12.5 Milligrams and 50 Milligrams, Were Not Withdrawn From Sale for Reasons of Safety or Effectiveness

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) has determined that PHENERGAN (promethazine hydrochloride (HCl)) tablets, 12.5 milligrams (mg) and 50 mg, were not withdrawn from sale for reasons of safety or effectiveness. This determination will allow FDA to approve abbreviated new drug applications (ANDAs) for promethazine HCl tablets, 12.5 mg and 50 mg.

FOR FURTHER INFORMATION CONTACT: Quynh Nguyen, Center for Drug Evaluation and Research (HFD–7), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–594–2041.

SUPPLEMENTARY INFORMATION: In 1984, Congress enacted the Drug Price Competition and Patent Term Restoration Act of 1984 (the 1984 amendments) (Public Law 98–417), which authorized the approval of duplicate versions of drug products approved under an ANDA procedure. ANDA sponsors must, with certain exceptions, show that the drug for which they are seeking approval contains the same active ingredient in the same strength and dosage form as the "listed drug," which is a version of the drug that was previously approved. Sponsors of ANDAs do not have to repeat the extensive clinical testing otherwise necessary to gain approval of a new drug application (NDA). The only clinical data required in an ANDA are data to show that the drug that is the subject of the ANDA is bioequivalent to the listed drug.

The 1984 amendments include what is now section 505(j)(7) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355(j)(7)), which requires FDA to publish a list of all approved drugs. FDA publishes this list as part of the "Approved Drug Products With Therapeutic Equivalence Evaluations," which is generally known as the "Orange Book." Under FDA regulations, drugs are withdrawn from the list if the agency withdraws or suspends approval of the drug's NDA or ANDA for reasons of safety or effectiveness or if FDA determines that the listed drug was withdrawn from sale for reasons of safety or effectiveness (21 CFR 314.162).

Under § 314.161(a)(1) (21 CFR 314.161(a)(1)), the agency must determine whether a listed drug was withdrawn from sale for reasons of safety or effectiveness before an ANDA that refers to that listed drug may be approved. FDA may not approve an ANDA that does not refer to a listed drug.

PHENERGAN (promethazine HCl) tablets, 12.5 mg and 50 mg, are the subject of approved NDA 7–935 held by Wyeth Pharmaceuticals, Inc. (Wyeth). PHENERGAN (promethazine HCl) tablets are indicated for, among other things, certain types of allergic reactions and sedation. Wyeth's NDA 7–935 was originally approved in 1951. In 1971, under the Drug Efficacy Study Implementation (DESI), FDA concluded that promethazine HCl tablets were effective or probably effective for the indications described in the **Federal Register** notice published on June 18, 1971 (DESI 6290, 36 FR 11758). Wyeth discontinued sale of the 12.5 mg and 50 mg tablets in 2004. Amide Pharmaceutical, Inc., and Peter S. Reichertz submitted citizen petitions dated July 28, 2005 (Docket No. 2005P–0300/CP1), and August 10, 2005 (Docket No. 2005P–0319/CP1), respectively, under 21 CFR 10.30, requesting that the agency determine, as described in § 314.161, whether PHENERGAN (promethazine HCl) tablets, 12.5 mg and 50 mg, were withdrawn from sale for reasons of safety or effectiveness.

The agency has determined that Wyeth's PHENERGAN (promethazine HCl) tablets, 12.5 mg and 50 mg, were not withdrawn from sale for reasons of safety or effectiveness. In support of this finding, we note that promethazine HCl is a widely used product that has been marketed for many decades in many dosage forms. FDA has independently evaluated relevant literature and data for adverse event reports and has found no information that would indicate that PHENERGAN tablets, 12.5 mg and 50 mg, were withdrawn for reasons of safety or effectiveness.

After considering the citizen petitions (including comments submitted) and reviewing agency records, FDA determines that for the reasons outlined previously, Wyeth's PHENERGAN (promethazine HCl) tablets, 12.5 mg and 50 mg, were not withdrawn from sale for reasons of safety or effectiveness. Accordingly, the agency will continue to list PHENERGAN (promethazine HCl) tablets, 12.5 mg and 50 mg, in the

"Discontinued Drug Product List" section of the Orange Book. The "Discontinued Drug Product List" delineates, among other items, drug products that have been discontinued from marketing for reasons other than safety or effectiveness. ANDAs that refer to PHENERGAN (promethazine HCl) tablets, 12.5 mg and 50 mg, may be approved by the agency as long as they meet all relevant legal and regulatory requirements for the approval of ANDAs.

Dated: June 30, 2006.

Jeffrey Shuren,

Assistant Commissioner for Policy.

[FR Doc. E6–11072 Filed 7–13–06; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 2006N–0266]

Medical Devices; Anesthesiology Devices; Neurological Devices; Denial of Request for Change in Classification of Breathing Frequency Monitor and Electroencephalograph

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice; denial of petition.

SUMMARY: The Food and Drug Administration (FDA) is denying the petitions submitted by IM Systems to reclassify the SleepCheck, the ActiTrac, and PAM–RL devices from class II (special controls) to class I (general controls). The agency is denying the petitions because the petitioner failed to provide sufficient new information to establish that general controls would provide reasonable assurance of the safety and effectiveness of the devices.

FOR FURTHER INFORMATION CONTACT: Heather S. Rosecrans, Center for Devices and Radiological Health (HFZ–404), Food and Drug Administration, 9200 Corporate Blvd., Rockville, MD 20850, 301–594–1190.

SUPPLEMENTARY INFORMATION:

I. Classification and Reclassification of Devices Under the Medical Devices Amendments of 1976 (the 1976 Amendments)

The Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 301 *et seq.*), as amended by the 1976 amendments (Public Law 94–295), the Safe Medical Devices Act of 1990 (SMDA) (Public Law 101–629), and the Food and Drug Administration Modernization Act of 1997 (FDAMA) (Public Law 105–115) established a comprehensive system for the regulation of medical devices intended for human use. Section 513 of the act (21 U.S.C. 360c) established three categories (classes) of devices, depending on the regulatory controls needed to provide reasonable assurance of their safety and effectiveness. The three categories of devices under the 1976 amendments are class I (general controls), class II (special controls), and class III (premarket approval).

Under section 513 of the act, devices that were in commercial distribution before May 28, 1976 (the date of enactment of the amendments), generally referred to as preamendments devices, are classified after FDA has: (1) Received a recommendation from a device classification panel (an FDA advisory committee); (2) published the panel's recommendation for comment, along with a proposed regulation classifying the device; and (3) published a final regulation classifying the device. FDA has classified most preamendment devices under these procedures.

Devices that were not in commercial distribution prior to May 28, 1976, generally referred to as postamendments devices, are classified automatically by statute (section 513(f) of the act) into class III without any FDA rulemaking process. Postamendments devices remain in class III and require premarket approval, unless: (1) The device is reclassified into class I or II; (2) FDA issues an order classifying the device into class I or II in accordance with section 513(f)(2) of the act; or (3) FDA issues an order finding the device to be substantially equivalent, under section 513(i) of the act, to a predicate device that does not require premarket approval. The agency determines whether new devices are substantially equivalent to predicate marketed devices by means of premarket notification procedures in section 510(k) of the act (21 U.S.C. 360(k)) and 21 CFR part 807, subpart E of the regulations.

Reclassification of classified preamendments devices is governed by section 513(e) of the act. This section of the act provides that FDA may, by rulemaking, reclassify a device based on "new information." The reclassification can be initiated by FDA or by the petition of an interested person. The term "new information," as used in section 513(e) of the act includes information developed as a result of a reevaluation of the data before the agency when the device was originally classified, as well as information not presented, not available, or not developed at that time. (See, e.g., *Holland Rantos* v. *United States Department of Health, Education, and Welfare*, 587 F.2d 1173, 1174 n.1 (D.C. Cir. 1978); *Upjohn* v. *Finch*, 422 F.2d 944 (6th Cir. 1970); *Bell* v. *Goddard*, 366 F.2d 177 (7th Cir. 1966).)

Reevaluation of the data previously before the agency is an appropriate basis for subsequent regulatory action where the reevaluation is made in light of newly available regulatory authority (see *Bell* v. *Goddard*, supra, 366 F.2d at 181; *Ethicon, Inc. v. FDA*, 762 F.Supp. 382, 389–91 (D.D.C. 1991)), or in light of changes in "medical science." (See *Upjohn* v. *Finch*, supra, 422 F.2d at 951.).

Regardless of whether data before the agency are past or new data, the "new information" upon which reclassification under section 513(e) of the act is based must consist of "valid scientific evidence," as defined in section 513(a)(3) of the act and § 860.7(c)(2) (21 CFR 860.7(c)(2)). (See, e.g., *General Medical Co.* v. *FDA*, 770 F.2d 214 (D.C. Cir. 1985); *Contact Lens Assoc.* v. *FDA*, 766 F.2d 592 (D.C. Cir.), cert. denied, 474 U.S. 1062 (1985)). In addition, § 860.123(a)(6) (21 CFR 860.123(a)(6)) provides that a reclassification petition must include a "full statement of the reasons, together with supporting data satisfying the requirements of § 860.7, why the device should not be classified into its present classification and how the proposed classification will provide reasonable assurance of the safety and effectiveness of the device." (§ 860.123(a)(6).) The "supporting data satisfying the requirements of § 860.7" referred to is "valid scientific evidence."

For the purpose of reclassification, the valid scientific evidence upon which the agency relies must be publicly available. Publicly available information excludes trade secret and/or confidential commercial information, e.g., the contents of a pending PMA. (See section 520(c) of the act (21 U.S.C. 360j(c).)

II. Reclassification Under the SMDA

SMDA further amended the act to change the definition of a class II device. Under the SMDA, class II devices are those devices that cannot be classified into class I because general controls by themselves are not sufficient to provide reasonable assurance of safety and effectiveness, but for which there is sufficient information to establish special controls to provide such assurance, including performance standards, postmarket surveillance, patient registries, development and dissemination of guidelines, recommendations, and other appropriate actions the agency deems necessary (Section 513(a)(1)(B) of the

act). Thus, the definition of a class II device was changed from "performance standards" to "special controls." In order for a device to be reclassified from class II to class I, the agency must determine that special controls are not necessary to provide reasonable assurance of its safety and effectiveness.

III. Background

In the **Federal Register** of July 16, 1982 (47 FR 31130), FDA issued a final rule classifying the breathing frequency monitor into class II (§ 868.2375). The preamble to the proposal to classify the device included the recommendation of the Anesthesiology Device Panel. The Panel identified the following risks to health associated with the use of the devices: (1) Failure of the device or alarm may cause abnormal conditions to go undiscovered and result in serious patient injury or death and (2) if the device does not monitor the patient's breathing frequency accurately he/she may receive incorrect therapy.

In the **Federal Register** of September 4, 1979 (44 FR 51726), FDA issued a final rule classifying the electroencephalograph into class II (§ 882.1400 (21 CFR 882.1400)). The preamble to the proposal to classify the device included the recommendation of the Neurological Device Panel. The Panel's recommendation identified the following risks to health associated with use of the device: (1) Misuse of the device as a result of using untrained persons may result in improper diagnosis and treatment; (2) misdiagnosis of the physiological symptoms could cause a misdiagnosis and lead to improper treatment of the patient's neurological condition; and (3) electrical shock could be associated with current leakage of the device, making it hazardous because the device makes a low resistance contact with the patient.

On August 18, 2004, IM Systems submitted three petitions requesting FDA to reclassify the SleepCheck device, the ActiTrac, and PAM–RL devices from class II to class I (Ref. 1). Under 21 CFR 860.120(b) the reclassification of any device within a generic type of device causes the reclassification of all substantially equivalent devices within that generic type of device.

IV. Device Description

The SleepCheck device is classified within the generic type of device called the breathing frequency monitor (§ 868.2375). FDA identifies the breathing frequency monitor as a device intended to measure or monitor a patient's respiratory rate. The device may provide an audible or visible alarm when the respiratory rate, averaged over time, is outside operator settable alarm limits.

The ActiTrac and PAM–RL devices are classified within the generic type of device called the electroencephalograph (§ 882.1400). FDA identifies the electroencephalograph as a device used to measure and record the electrical activity of the patient's brain obtained by placing two or more electrodes on the head.

V. FDA's Decision

After reviewing both the reclassification petitions and the petitioner's responses to our subsequent requests for information, FDA has found that the petitions do not contain any valid scientific evidence to support a conclusion that general controls would provide reasonable assurance of the devices' safety and effectiveness for their intended uses or that special controls are not necessary to provide reasonable assurance of the safety and effectiveness of the devices. Therefore, FDA is denying the petitions for reclassification of these device types.

VI. References

The following references have been placed on display in the Division of Dockets Management (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852. These references may be seen by interested persons between 9 a.m. and 4 p.m., Monday through Friday.

1. Petitions from IM Systems for the reclassification of the SleepCheck device, PAM–RL device, and the ActiTrac device, dated August 18, 2004.

Dated: July 5, 2006.

Linda S. Kahan,

Deputy Director, Center for Devices and Radiological Health.

[FR Doc. E6–11115 Filed 7–13–06; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Government-Owned Inventions; Availability for Licensing

AGENCY: National Institutes of Health, Public Health Service, HHS.

ACTION: Notice.

SUMMARY: The inventions listed below are owned by an agency of the U.S. Government and are available for licensing in the U.S. in accordance with 35 U.S.C. 207 to achieve expeditious commercialization of results of federally-funded research and development. Foreign patent applications are filed on selected inventions to extend market coverage for companies and may also be available for licensing.

ADDRESSES: Licensing information and copies of the U.S. patent applications listed below may be obtained by writing to the indicated licensing contact at the Office of Technology Transfer, National Institutes of Health, 6011 Executive Boulevard, Suite 325, Rockville, Maryland 20852–3804; telephone: 301–496–7057; fax: 301–402–0220. A signed Confidential Disclosure Agreement will be required to receive copies of the patent applications.

Method for Expanding Allodepleted Antigen Specific T Cells

Description of Technology: Available for licensing and commercial development are methods of producing a population of purified non-alloreactive antigen-specific T cells that recognize an antigen of interest. Thus, the population of donor T cells can be used to produce immune response against the antigen of interest (e.g., cytomegalovirus) in a recipient without producing an immune response to the recipient. Currently available methods for isolating and expanding antigen-specific T cells can be inefficient and produce populations of cells that include donor-reactive T cells. The present method enables rapid production of populations of T cells that recognize an antigen of interest but are depleted for alloreactive T cells: A population of donor T cells is contacted with a population of irradiated recipient antigen presenting cells (T–APCs) to produce a population of alloreactive T cells. The alleractive T cells are removed by purification with an antibody that specifically binds a cell surface marker (e.g., CD25, CD69, CD38 or CD71). The population of allo-depleted donor cells is then contacted with donor T antigen presenting cells (T–APCs) expressing an antigen of interest and produces a population of donor allo-depleted activated CD4 and CD8 T cells.

Applications: Immune response to opportunistic infectious in immuno-compromised transplant or graft recipients.

Market: (1) Cytomegalovirus; (2) General post-transplant opportunistic infections.

Inventors: J. Joseph Melenhorst and A. John Barrett (NHLBI).

Publications:

1. JJ Melenhorst, TH Brummendorf, M Kirby, PM Lansdorp, AJ Barrett. "CD8+T cells in large granular lymphocyte

leukemia are not defective in activation- and replication-related apoptosis." Leuk Res. 2001 Aug;25(8):699–708.

2. H Fujiwara, JJ Melenhorst, F El Ouriaghli, et al."In vitro induction of myeloid leukemia-specified CD4 and CD8 T cells by CD40 ligand-activated B cells gene modified to express primary granule proteins." Clin Cancer Res. 2005 Jun 15;11(12):4495–4503.

Patent Status: U.S. Provisional Application No. 60/804,404 filed 09 Jun 2006 (HHS Reference No. E–136–2006/0–US–01).

Licensing Status: Available for non-exclusive or exclusive licensing.

Licensing Contact: Michael A. Shmilovich, Esq.; 301/435–5019; *shmilovm@mail.nih.gov*.

Collaborative Research Opportunity: The NHLBI Hematology Branch is seeking statements of capability or interest from parties interested in collaborative research to further develop, evaluate, or commercialize a Method for Expanding Allodepleted Antigen Specific T Cells. Please contact Dr. A.J. Barrett at 301/402–4170 or *barrettjj@mail.nih.gov* for more information.

A Newly Discovered Bacterium in the Family Acetobacteraceae

Description of Technology: Available for licensing and commercial development is a newly discovered bacterium in the Acetobacteraceae family. This bacterium was isolated, characterized and grown from lymph nodes of a patient with chronic granulomatous disease (CGD), a rare genetic disorder that impairs the immune system.

This Gram-negative bacterium is an aerobic, faculatitive methylotroph that produces yellow pigmented colonies. The closest nucleic acid sequence match was to Gluconacetobacter sacchari (95.7% similarity) of the acetic acid bacteria. The newly descibed bacterium belongs to a new genus and species in the Acetobacteraceae family and was named Granulibacter bethesdenis. Acetobacteraceae are characterized by their ability to convert alcohol (ethanol) to acetic acid in the presence of air. Members of this family are used industrially in the production of vinegar, and are encountered during fermentation of wine.

G. bethesdenis can breakdown methanol, formaldehyde, ethanol and their intermediate breakdown products into non-toxic end-products. Examples of non-toxic end-products include carbon dioxide, water, and acetic acid.

The invention provides the complete genome sequence from the bacterium. Also included are permission to purify and utilize unique enzymes that the bacteriuum uses to degrade organic materials, for example methanol dehydrogenase, formaldehyde-activating enzyme, and methylenetetrahydrofolate dehydrogenase (NAPD+).

Applications: (1) Biodegradation of organic waste; (2) Microbial fuel cell; (3) Production of purified polypeptide enzymes for industrial use.

Inventors: Steven M. Holland (NIAID), Patrick Murray (CC), Adrian M. Zelazny (CC), David E. Greenberg (NIAID).

Publication: DE Greenberg, L Ding, AM Zelazny, F Stock, A Wong, et al. "A novel bacterium associated with lymphadenitis in a patient with chronic granulomatous disease." PLoS Pathog 2006 Apr;2(4):e28. Epub 2006 Apr 14, doi: 10.1371/journal.ppat.0020028. (PubMed abstract = *http://www.ncbi.nlm.nih.gov/entrez/query.fcgi?cmd=Retrieve&db=pubmed&dopt=Abstract&list_uids=16617373&query_hl=1&itool=pubmed_docsum*).

Patent Status: U.S. Provisional Application No. 60/788,521 filed 31 Mar 2006 (HHS Reference No. E–083–2006/0–US–01).

Licensing Status: Available for non-exclusive or exclusive licensing.

Licensing Contact: Chekesha Clingman, PhD.; 301/435–5018; *clingmac@mail.nih.gov*

Collaborative Research Opportunity: The NIAID Laboratory of Host Defenses is seeking statements of capability or interest from parties interested in collaborative research to further develop, evaluate, or commercialize this technology. Please contact Kelly Murphy at 301–451–3523 or *murphykt@niaid.nih.gov* for more information.

Fluorescent Imaging and Photodynamic Treatment of Tumors

Description of Technology: Available for licensing and commercial development are methods and compositions for optically detecting tumors, in particular disseminated intraperitoneal cancers. Unlike exiting detection methods using avidin and/or galactosyl serum albumin (GSA), the current invention allows tumors to be visualized *in situ*, with high sensitivity and without hazardous radioactive probes. The invention also provides methods of treating tumors.

The invention describes the labeling of avidin and GSA with fluorophores. The fluorescently labeled agents selectively bind to cells expressing asialoglycoprotein receptors on the surface of tumor cells, such as in tumors of the ovary, stomach, colon or pancreas. Metastatic tumor cells can then be detected endoscopically, laparoscopically, or during surgery with an appropriate imaging system.

The fluorescently labeled avidin and GSA can be used diagnostically, but also have an application for treating cancer. Using photoactivatable fluorophores linked to avidin or GSA, free radicals can be produced which results in localized death of tumor cells upon exposure to excitation with the appropriate wavelength.

Applications: (1) Optical detection of tumor cells and metastatic nodules; (2) Photodynamic treatment of tumors.

Inventors: Hisataka Kobayashi and Peter Choyke (NCI).

Patent Status: U.S. Provisional Application No. 60/751,429 filed 16 Dec 2005 (HHS Reference No. E–335–2005/0–US–01).

Licensing Status: Available for non-exclusive or exclusive licensing.

Licensing Contact: Chekesha Clingman, PhD; 301/435–5018; *clingmac@mail.nih.gov*.

Collaborative Research Opportunity: The National Cancer Institute *Molecular Imaging Program* is seeking statements of capability or interest from parties interested in collaborative research to further develop, evaluate, or commercialize tumor specific imaging agents. Please contact Laurie Zipper, Ph.D., at 301–594–4650 or *zipperl@mail.nih.gov* for more information.

Coacervate Microparticles Useful for the Sustained Release Administration of Therapeutics Agents

Description of Technology: The described technology is a biodegradable microbead or microparticle, useful for the sustained localized delivery of biologically active proteins or other molecules of pharmaceutical interest. The microbeads are produced from several USP grade materials, a cationic polymer, an anionic polymer and a binding component (e.g., gelatin, chondroitin sulfate and avidin), in predetermined ratios. Biologically active proteins are incorporated into preformed microbeads via an introduced binding moiety under nondenaturing conditions.

Proteins or other biologically active molecules are easily denatured, and once introduced into the body, rapidly cleared. These problems are circumvented by first incorporating the protein into the microbead. Microbeads with protein payloads are then introduced into the tissue of interest, where the microbeads remain while degrading into biologically innocuous materials while delivering the protein/drug payload for adjustable periods of

time ranging from hours to weeks. This technology is an improvement of the microbead technology described in U.S. Patent No. 5,759,582.

Applications: This technology has two commercial applications. The first is a pharmaceutical drug delivery application. The bead allows the incorporated protein or drug to be delivered locally at high concentration, ensuring that therapeutic levels are reached at the target site while reducing side effects by keeping systemic concentration low. This microbead accomplishes this while protecting the biologically active protein from harsh conditions traditionally encountered during microbead formation/drug formulation.

The microbeads are inert, biodegradable, and allow a sustained release or multiple-release profile of treatment with various active agents without major side effects. In addition, the bead maintains functionality under physiological conditions.

Second, the microbead and microparticles can be used in various research assays, such as isolation and separation assays, to bind target proteins from biological samples. A disadvantage of the conventional methods is that the proteins become denatured. The denaturation results in incorrect binding studies or inappropriate binding complexes being formed. The instant technology corrects this disadvantage by using a bead created in a more neutral pH environment. it is the same environment that is used for the finding of the protein of interest as well.

Inventor: Phillip F. Heller (NIA).

Patent Status: U.S. Provisional Application No. 60/602,651 filed 19 Aug 2004 (HHS Reference No. E–116–2004/0–US–01); PCT Application No. PCT/US2005/026257 filed 25 Jul 2005, which published as WO 2006/023207 on 02 Mar 2006 (HHS Reference No. E–116–2004/0–PCF–02).

Licensing Status: Available for non-exclusive or exclusive licensing.

Licensing Contact: Susan O. Ano, Ph.D.; 301–435–5515; *anos@mail.nih.gov.*

Methods and Compositions Related to GHS–R Antagonist

Description of Technology: This invention describes that additional functional role for D–Lys3 GHRP–6 (a known GHS–R antagonist, peptide) as a blocker of two well-known chemokine receptors, namely CCR5 and CXCR4. These receptors are major HIV co-receptors and are critical for HIV binding, fusion and entry into human T cells, monocytes, dendritic cells, and various other cells within the body. Moreover, these receptors and their ligands play a major role in inflammation and a variety of acute and chronic disease states. Overall, these two mammalian chemokine receptors are currently major drug targets for treatment of AIDS, cancer and many immunoregulatory disorders. Many identified antogonists block one or the other receptor. Since D–Lys3 GHRP–6 actually binds and blocks both these chemokines receptors at the same time hindering their activity and HIV infectivity, D–Lys3 GHRP–6 may be a good therapeutic candidate for treatment of AIDS and inflammatory diseases.

Inventors: Vishwa D. Dixit and Dennis D. Taub (NIA).

Patent Status: U.S. Provisional application No. 60/773,076 filed 13 Feb 2006 (HHS Reference No. E–017–2004/0–US–01).

Licensing Status: Available for non-exclusive or exclusive licensing.

Licensing Contact: Sally Hu, Ph.D., M.B.A.; 301–435–5605; *hus@od.nih.gov.*

Collaborative Research Opportunity: The National Institute on Aging's Laboratory of Immunology is seeking statements of capability or interest from parties interested in collaborative research to further develop, evaluate, or commercialize this technology. Please contact Nicole D. Guyton at 301–435–3101 or *darackn@mail.nih.gov* for more information.

Dated: July 3, 2006

David R. Sadowski,

Acting Director, Division of Technology Development and Transfer, Office of Technology Transfer, National Institutes of Health.

[FR Doc. 06–6211 Filed 7–13–06; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes Health

National Cancer Institute; Notice of Meeting

Pursuant to section 10(a) of the Federal Advisory Committee Act, as amended (5 U.S.C. appendix 2), notice is hereby given of a meeting of the Advisory Committee to the Director, National Cancer Institute.

The meeting will be open to the public, with attendance limited to space available. Individuals who plan to attend and need special assistance, such as sign language interpretation or other reasonable accommodations, should notify the Contact Person listed below in advance of the meeting.

Name of Committee: Advisory Committee to the Director, National Cancer Institute.

Date: August 9, 2006

Time: 1 p.m. to 2 p.m.

Agenda: Review of Adolescent and Young Adult Oncology Progress Review Group Report.

Place: National Institutes of Health, Building 31, Room 11A48, 31 Center Drive, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Cherie Nichols, Director of Science Planning and Assessment, National Cancer Institute, Building 6116, Room 205, Bethesda, MD 20892, (301) 496–5515.

Any interested person may file written comments with the committee by forwarding the statement to the Contact Person listed on this notice. The statement should include the name, address, telephone number and when applicable, the business or professional affiliation of the interested person.

Information is also available on the Institute's home page: deainfo.nci.nih.gov/advisory/joint/htm, where an agenda and any additional information for the meeting will be posted when available.

(Catalogue of Federal Domestic Assistance Program Nos. 93.392, Cancer Construction; 93.393, Cancer Cause and Prevention Research; 93.394, Cancer Detection and Diagnosis Research; 93.395, Cancer Treatment Research; 93.396, Cancer Biology Research; 93.397, Cancer Centers Support; 93.398, Cancer Research Manpower; 93.399, Cancer Control, National Institutes of Health, HHS).

Dated: July 7, 2006.

Anna Snouffer,

Acting Director, Office of Federal advisory Committee Policy.

[FR Doc. 06–6204 Filed 7–13–06; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Cancer Institute; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which could constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Cancer Institute Special Emphasis Panel, NCI K99/R00 Review Committee.

Date: July 11–12, 2006.

Time: 8 a.m. to 4 p.m.

Agenda: To review and evaluate grant applications.

Place: Holiday Inn—Historic District Alexandria, 625 First Street, Alexandria, VA 22314.

Contact Person: Lynn M. Amende, PhD, Scientific Review Administrator, Resources and Training Review Branch, Division of Extramural Activities, National Cancer Institute, 6116 Executive Boulevard, Room 8105, Bethesda, MD 20892–8328, 301–451–4759, *amendel@mail.nih.gov*.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

(Catalogue of Federal Domestic Assistance Program Nos. 93.392, Cancer Construction; 93.393, Cancer Cause and Prevention Research; 93.394, Cancer Detection and Diagnosis Research; 93.395, Cancer Treatment Research; 93.396, Cancer Biology Research; 93.397, Cancer Centers Support; 93.398, Cancer Research Manpower; 93.399, Cancer Control, National Institutes of Health, HHS)

Dated: July 7, 2006.

Anna Snouffer,

Acting Director, Office of Federal Advisory Committee Policy.

[FR Doc. 06–6208 Filed 7–13–06; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Diabetes and Digestive and Kidney Diseases; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Diabetes and Digestive and Kidney Diseases Special Emphasis Panel, Mentored Development Award in Renal Epithelial Transport.

Date: July 29, 2006.

Time: 1 p.m. to 1:40 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Two Democracy Plaza, 6707 Democracy Boulevard, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Ned Feder, MD, Scientific Review Administrator, Review Branch, DEA, NIDDK, National Institutes of Health, Room 912, 6707 Democracy Boulevard, Bethesda, MD 20892–5452, (301) 594–8890, *federn@extra.nidk.nih.gov*.

(Catalogue of Federal Domestic Assistance Program Nos. 93.847, Diabetes. Endocrinology and Metabolic Research; 93.848, Digestive Diseases and Nutrition Research; 93.849, Kidney Diseases, Urology and Hematology Research, National Institutes of Health, HHS)

Dated: July 6, 2006.

Anna Snouffer,

Acting Director, Office of Federal Advisory Committee Policy.

[FR Doc. 06–6200 Filed 7–13–06; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Allergy and Infectious Diseases; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Allergy and Infectious Diseases Special Emphasis Panel, Immunological Mechanisms Underlying Heterosubtypic Protection Against Influenza Virus.

Date: July 28, 2006.

Time: 9 a.m. to 12 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6700B Rockledge Drive, Room 3137, Bethesda, MD 20817 (Telephone Conference Call).

Contact Person: Hagit S. David, PhD, Scientific Review Administrator, Scientific Review Program, Division of Extramural Activities, National Institutes of Health/NIAID, 6700B Rockledge Drive, MSC 7616, Bethesda, MD 20892–7616, (301) 402–4596, *hdavid@niaid.nih.gov*.

Name of Committee: National Institute of Allergy and Infectious Diseases Special Emphasis Panel, Development of Therapeutic Strategies to Elicit Protective Host Immunity Against Influenza.

Date: July 28, 2006.

Time: 12 p.m. to 3 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6700B Rockledge Drive, Room 3137, Bethesda, MD 20817 (Telephone Conference Call).

Contact Person: Hagit S. David, PhD, Scientific Review Administrator, Scientific Review Program, Division of Extramural Activities, National Institutes of Health/NIAID, 6700B Rockledge Drive, MSC 7616, Bethesda, MD 20892–7616, (301) 402–4596, *hdavid@niaid.nih.gov*.

(Catalogue of Federal Domestic Assistance Program Nos. 93.855, Allergy, Immunology, and Transplantation Research; 93.856, Microbiology and Infectious Diseases Research, National Institutes of Health, HHS)

Dated: July 6, 2006.

Anna Snouffer,

Acting Director, Office of Federal Advisory Committee Policy.

[FR Doc. 06–6201 Filed 7–13–06; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Environmental Health Sciences; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commerical property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Environmental Health Sciences Review Committee.

Date: July 17–19, 2006.

Time: 8 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Nat. Inst. of Environmental Health Sciences, Building 101, Rodbell Auditorium, 111 T. W. Alexander Drive, Research Triangle Park, NC 27709.

Contact Person: Linda K Bass, PhD, Scientific Review Administrator, Nat'l Institute of Environmental Health Sciences, P.O. Box 12233, MD EC–24, Research Triangle Park, NC 27709, (919) 541–1307.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

(Catalogue of Federal Domestic Assistance Program Nos. 93.115, Biometry and Risk Estimation—Health Risks from Environmental Exposures; 93.142, NIEHS Hazardous Waste Worker Health and Safety Training; 93.143, NIEHS Superfund Hazardous Substances—Basic Research and Education; 93.894, Resources and Manpower Development in the Environmental Health Sciences; 93.113, Biological Response to Environmental Health Hazards; 93.114, Applied Toxicological Research and Testing, National Institutes of Health, HHS)

Dated: July 6, 2006.

Anna Snouffer,

Acting Director, Office of Federal Advisory Committee Policy.

[FR Doc. 06–6202 Filed 7–13–06; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Child Health and Human Development; Notice of Closed Meeting

Purusant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Child Health and Human Development Special Emphasis Panel, Animal Models of Prenatal Malnutrition.

Date: July 17, 2006.

Time: 9 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Hotel Washington, Pennsylvania Ave at 15th Street, NW., Washington, DC 20004.

Contact Person: Norman Chang, PhD, Scientific Review Administrator, Division of Scientific Review, National Institute of Child Health and Human Development, NIH, 6100 Executive Blvd., Room 5B01, Bethesda, MD 20892, (301) 496–1485, *changn@mail.nih.gov.*

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the reveiw and funding cycle.

(Catalogue of Federal Domestic Assistance Program Nos. 93.864, Population Research; 93.865, Research for Mothers and Children; 93.929, Center for Medical Rehabilitation Research; 93.209, Contraception and Infertility Loan Repayment Program, National Institutes of Health, HHS)

Dated: July 6, 2006.

Anna Snouffer,

Acting Director, Office of Federal Advisory Committee Policy.

[FR Doc. 06–6203 Filed 7–13–06; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Child Health and Human Development; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Child Health and Human Development Special Emphasis Panel, Learning Disabilities.

Date: August 1–2, 2006.

Time: 9 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: The Mayflower Hotel, 1127 Connecticut Avenue, NW., Washington, DC 20036.

Contact Person: Marita R. Hopmann, PhD, Scientific Review Administrator, Division of Scientific Review, National Institute of Child Health and Human Development, 6100 Building, Room 5B01, Bethesda, MD 20892, (301) 435–6911, *hopmannm@mail.nih.gov.*

Name of Committee: National Institute of Child Health and Human Development Special Emphasis Panel, Nutrition and HPV in Early Cervical Dysplasia.

Date: August 8, 2006.

Time: 2 p.m. to 3 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6100 Executive Boulevard, Room 5B01, Rockville, MD 20852 (Telephone Conference Call).

Contact Person: Jon M. Ranhand, PhD, Scientific Review Administrator, Division of Scientific Review, National Institute of Child Health and Human Development, NIH, 6100 Executive Boulevard, Room 5B01, Bethesda, MD 20892, (301) 435–6884, *ranhandj@mail.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.864, Population Research; 93.865, Research for Mothers and Children; 93.929, Center for Medical Rehabilitation Research; 93.209, Contraception and Infertility Loan Repayment Program, National Institutes of Health, HHS)

Dated: July 7, 2006.

Anna Snouffer,

Acting Director, Office of Federal Advisory Committee Policy.

[FR Doc. 06–6205 Filed 7–13–06; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of General Medical Sciences; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2, notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of General Medical Sciences Special Emphasis Panel, NIGMS Protein Structure Initiative—Materials Repository.

Date: July 14, 2006.

Time: 9 a.m. to 1 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institute of Health, Natcher Building, 45 Center Drive, Bethesda, MD 20892 (Telephone Conference Call).

Contact Person: Brian R. Pike, PhD, Scientific Review Administrator, Office of Scientific Review, National Institute of General Medical Sciences, National Institutes of Health, 45 Center Drive, Room 3AN18, Bethesda, MD 20892, 301–594–3907, *pikbr@mail.nih.gov.*

This notice is being published less than 15 days prior to the meeting due to the timing

limitations imposed by the review and funding cycle.

(Catalogue of Federal Domestic Assistance Program Nos. 93.375, Minority Biomedical Research Support; 93.821, Cell Biology and Biophysics Research; 93.859, Pharmacology, Physiology, and Biological Chemistry Research; 93.862, Genetics and Developmental Biology Research; 93.88, Minority Access to Research Careers; 93.96, Special Minority Initiatives, National Institutes of Health, HHS)

Dated: July 6, 2006.

Anna Snouffer,

Acting Director, Office of Federal Advisory Committee Policy.

[FR Doc. 06–6206 Filed 7–13–06; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute on Alcohol Abuse and Alcoholism; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute on Alcohol Abuse and Alcoholism Special Emphasis Panel, National Institute on Alcohol Abuse and Alcoholism.

Date: July 18, 2006.

Time: 1:00 p.m. to 1:30 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 5635 Fishers Lane, Bethesda, MD 20892.

Contact Person: Katrina L. Foster, PhD, Scientific Review Administrator

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

(Catalogue of Federal Domestic Assistance Program Nos. 93.271, Alcohol Research Career Development Awards for Scientists and Clinicians; 93.272, Alcohol National Research Service Awards for Research Training; 93.273, Alcohol Research Programs; 93.891, Alcohol Research Center Grants, National Institutes of Health, HHS)

Dated: July 7, 2006.

Anna Snouffer,

Acting Director, Office of Federal Advisory Committee Policy.

[FR Doc. 06–6207 Filed 7–13–06; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Neurological Disorders and Stroke; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commerical property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Neurological Disorders and Stroke Special Emphasis Panel, Neurofibromatosis Research SEP.

Date: July 24, 2006.

Time: 11:30 a.m. to 4:30 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Neuroscience Center, 6001 Executive Boulevard, Rockville, MD 20852 (Telephone Conference Call).

Contact Person: Shantadurga Rajaram, PhD, Scientific Review Administrator, Scientific Review Branch, NIH/NINDS/Neuroscience Center, 6001 Executive Blvd., Suite 3208, Msc 9529, Bethesda, MD 20852, (301) 435–6033, *rajarams@mail.nih.gov.*

Name of Committee: National Institute of Neurological Disorders and Stroke Special Emphasis Panel Training and Career Development.

Date: July 25, 2006.

Time: 2 p.m. to 9:30 p.m.

Agenda: To review and evaluate grant applications.

Place: National institutes of Health, Neuroscience Center, 6001 Executive Boulevard, Rockville, MD 20852 (Telephone Conference Call).

Contact Person: Raul A Saavedra, PhD, Scientific Review Administrator, Scientific Review Branch, Division of Extramural Research, NINDS/NIH/DHHS, NSC; 6001 Executive Blvd., Ste. 3208, Bethesda, MD 20892–9529, 301–496–9223, *saavedrr@ninds.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.853, Clinical Research Related to neurological Disorders; 93.854, Biological Basis Research in the Neurosciences, National Institutes of Health, HHS)

Dated: July 7, 2006.

Anna Snouffer,

Acting Director, Office of Federal Advisory Committee Policy.

[FR Doc. 06–6209 Filed 7–13–06; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Child Health and Human Development; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Child Health and Human Development Special Emphasis Panel, HLA–G at the Maternal Fetal Interface.

Date: July 11, 2006.

Time: 1 p.m. to 4 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6100 Executive Boulevard, Room 5B01, Rockville, MD 20852 (Telephone Conference Call).

Contact Person: Gopal M. Bhatnagar, PhD, Scientific Review Administrator, National Institute of Child Health and Human Development, National Institutes of Health, 6100 Bldg Rm 5B01, Rockville, MD 20852, (301) 435–6889, *bhatnagg@mail.nih.gov.*

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: National Institute of Child Health and Human Development Special Emphasis Panel, The Effects of Aspirin in Gestation and Reproduction (EAGR) Trial: Clinical Sites and Data Centers.

Date: July 16–17, 2006.

Time: 8 a.m. to 5 p.m.

Agenda: To review and evaluate contract proposals.

Place: Ramada Inn Rockville, 1775 Rockville Pike, Rockville, MD 20852.

Contact Person: Hameed Khan, PhD, Scientific Review Administrator, Division of Scientific Review, National Institute of Child Health and Human Development, NIH, 6100 Executive Blvd., Room 5B01, Bethesda, MD 20892, (301) 435–6902, *khanh@mail.nih.gov.*

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: National Institute of Child Health and Human Development Special Emphasis Panel, Insulin Resistance in PCOS-Sequelae and Treatment.

Date: July 18, 2006.

Time: 1 p.m. to 2 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6100 Executive Boulevard, Room 5B01, Rockville, MD 20852 (Telephone Conference Call).

Contact Person: Gopal M. Bhatnagar, PhD, Scientific Review Administrator, National Institute of Child Health and Human Development, National Institutes of Health, 6100 Bldg Rm 5B01, Rockville, MD 20852, (301) 435–6889, *bhatnagg@mail.nih.gov.*

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: National Institute of Child Health and Human Development Special Emphasis Panel, The US Life Cycle of Immigrants: A Human Capital Investment Perspective.

Date: July 18, 2006.

Time: 1:45 p.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6100 Executive Boulevard, Room 5B01, Rockville, MD 20852, (Telephone Conference Call).

Contact Person: Carla T. Walls, PhD, Scientific Review Administrator, Division of Scientific Review, National Institute of Child Health and Human Development, NIH, 6100 Executive Blvd., Room 5B01, Bethesda, MD 20892, (301) 435–6898, *wallsc@mail.nih.gov.*

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

(Catalogue of Federal Domestic Assistance Program Nos. 93.864, Population Research; 93.865, Research for Mothers and Children; 93.929, Center for Medical Rehabilitation Research; 93.209, Contraception and Infertility Loan Repayment Program, National Institutes of Health, HHS)

Dated: July 7, 2006.

Anna Snouffer,

Acting Director, Office of Federal Advisory Committee Policy.

[FR Doc. 06–6210 Filed 7–13–06; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Library of Medicine; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Library of Medicine Special Emphasis Panel, R13 Conference Grants.

Date: August 16, 2006.

Time: 12 p.m. to 1 p.m.

Agenda: To review and evaluate grant applications.

Place: National Library of Medicine, 6705 Rockledge Drive, Suite 301, Bethesda, MD 20817 (Telephone Conference Call).

Contact Person: Zoe E. Huang, Health Science Administrator, Extramural Programs, National Library of Medicine, Rockledge 1 Building, 6705 Rockledge Drive, Suite 301, Bethesda, MD 20892–7968, 301–594–4937, *huangz@mail.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.879, Medical Library Assistance, National Institutes of Health, HHS)

Dated: July 7, 2006.

Anna Snouffer,

Acting Director, Office of Federal Advisory Committee Policy.

[FR Doc. 06–6198 Filed 7–13–06; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center for Scientific Review; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Center for Scientific Review Special Emphasis Panel, Cognition, Perception and Language.

Date: July 18, 2006.

Time: 8 a.m. to 6 p.m.

Agenda: To review and evaluate grant applications.

Place: Hamilton Crowne Plaza Hotel, 14th and K Street, NW, Washington, DC 20005.

Contact Person: Lynn T. Nielsen-Bohlman, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3089F, MSC 7848, Bethesda, MD 20892, (301) 594–5287, *nielsenl@csr.nih.gov.*

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Center for Scientific Review Special Emphasis Panel, Language and Cognition Fellowships.

Date: July 18, 2006.

Time: 8 a.m. to 6 p.m.

Agenda: To review and evaluate grant applications.

Place: Hamilton Crowne Plaza, 14th and K Street, NW, Washington, DC 20005.

Contact Person: Dana Jeffrey Plude, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3176, MSC 7848, Bethesda, MD 20892, 301–435–2309, *pluded@csr.nih.gov.*

This notice is being published less than 15 days prior to the meeting due to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Center for Scientific Review Special Emphasis Panel, International Research Scientist Development Award.

Date: July 24, 2006.

Time: 10 a.m. to 2 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Sherry L. Dupere, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5136, MSC 7843, Bethesda, MD 20892, (301) 435–1021, *duperes@csr.nih.gov.*

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Center for Scientific Review Special Emphasis Panel, Developmental Risks.

Date: July 24, 2006.

Time: 11 a.m. to 1 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Michael Micklin, PhD, Chief, RPHB IRG, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3136, MSC 7759, Bethesda, MD 20892, (301) 435–2158, *micklinm@csr.nih.gov.*

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Center for Scientific Review Special Emphasis Panel, Innovations in BCST, Psychopathology and Sleep Disorders.

Date: July 25, 2006.

Time: 3 p.m. to 4 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Dana Jeffrey Plude, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3176, MSC 7848, Bethesda, MD 20892, 301–435–2309, *pluded@csr.nih.gov.*

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Center for Scientific Review Special Emphasis Panel, Bioengineering Research Partnerships—Brain Injury and Visual Impairment.

Date: July 25, 2006.

Time: 5 p.m. to 6 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Dana Jeffrey Plude, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3176, MSC 7848, Bethesda, MD 20892, 301–435–2309, *pluded@csr.nih.gov.*

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Center for Scientific Review Special Emphasis Panel, Sleep and Chronic Disease.

Date: July 26, 2006.

Time: 11 a.m. to 1 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Michael Micklin, PhD, Chief, RPHB IRG, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3136, MSC 7759, Bethesda, MD 20892, (301) 435–2158, *micklinm@csr.nih.gov.*

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Center for Scientific Review Special Emphasis Panel, Member Conflict: Child Psychopathology and Developmental Disabilities.

Date: July 2, 2006.

Time: 1 p.m. to 2:30 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Mariela Shirley, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3186, MSC 7848, Bethesda, MD 20892, (301) 435–0193, *shirleym@csr.nih.gov.*

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

(Catalogue of Federal Domestic Assistance Program Nos. 93.306, Comparative Medicine; 93.333, Clinical Research, 93.306, 93.333, 93.337, 93.393–93.396, 93.837–93.844, 93.846–93.878, 93.892, 93.893, National Institutes of Health, HHS)

Dated: July 7, 2006.

Anna Snouffer,

Acting Director, Office of Federal Advisory Committee Policy.

[FR Doc. 06–6199 Filed 7–13–06; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Prospective Grant of Exclusive License: Convection Enhanced Delivery and Tracking of Gadolinium Conjugated Therapeutic Agents to the Central Nervous System

AGENCY: National Institutes of Health, Public Health Service, HHS.

ACTION: Notice.

SUMMARY: This is notice, in accordance with 35 U.S.C. 209(c)(1) and 37 CFR 404.7(a)(1)(i), that the National Institutes of Health (NIH), Department of Health and Human Services, is contemplating the grant of an exclusive worldwide license to practice the invention embodied: HHS. Ref. No. E–202–2002 "Method for Convection Enhanced Delivery of Therapeutic Agents," Provisional Patent Application, 60/413,673; International Patent Application PCT/US03/30155, U.S. Patent Application Serial No. 10/528,310; European Patent Applications Serial No. 03756863.1; Australian Patent Application No. 2003299140; Canadian Patent Application No. 2,499,573; and HHS Ref. No. E–206–2000/0 and/1 "Method for Increasing the Distribution of Therapeutic Agents;" and "Method for Increasing the Distribution of Nucleic Acids;" Provisional, Patent Application 60/250,286; Provisional Patent Application No. 60/286,308; U.S. Patent Application No. 09/999,203; U.S. Patent Application No. 10/132,681; and Canadian Patent Application No. 2327208, to MedGenesis Therapeutix, Inc. a Canadian company having its headquarters in Victoria, British Columbia. The United States of America is the assignee of the patent rights of the above invention. The contemplated exclusive license may be granted in a field of use limited to the convection enhanced delivery and tracking of gadolinium conjugated peptides, polypeptides or lipid-based therapeutic agents within the central nervous system of subjects with cancer, Parkinson's disease, Dementia with Lewy bodies or Alzheimer's disease.

DATES: Only written comments and/or applications for a licence received by the NIH Office of Technology Transfer on or before September 12, 2006.

ADDRESSES: Requests for a copy of the patent application, inquiries, comments and other materials relating to the contemplated license should be directed to: Michael A. Shmilovich, Esq., Office of Technology Transfer, National Institutes of Health, 6011 Executive Boulevard, Suite 325, Rockville, MD 20852–3804; Telephone: (301) 435–5019; Facsimile: (301) 402–0220; E-mail: *shmilovm@mail.nih.gov.* A signed confidentiality nondisclosure agreement will be required to receive copies of the patent applications.

SUPPLEMENTARY INFORMATION: The patent applications intended for licensure disclose and/or cover the following:

E–202–2002 "Method for Convection Enhanced Delivery of Therapeutic Agents." The invention is a method for monitoring the spatial distribution of therapeutic substances by MRI or CT that have been administered to tissue using convection enhanced delivery, a technique that is the subject of NIH-owned U.S. Patent No. 5,720,720. In one embodiment, the tracer is a molecule, detectable by MRI or CT, which functions as a surrogate for the motion of the therapeutic agent through the solid tissue. In other particular embodiments, the tracer is the therapeutic agent conjugated to an imaging moiety. The method of this invention uses non-toxic macromolecular MRI contrast agents comprised of chelated Gd(III). In particular, the surrogate tracer used in this invention is a serum albumin conjugated with either a gadolinium chelate of 2-(p-isothiocyanotobenzyl)-6-methyldiethylenertriamine pentaacetic

acid or with iopanioc acid. These macromolecular imaging agents have clearance properties that mimic the pharmacokinetic properties of co-administrated drugs, so as to be useful in quantifying the range and dosage level of therapeutic drugs using MR imaging.

E–206–2000 "Method for increasing the distribution of therapeutic agents:" "Method for increasing the distribution of nucleic acids." The invention pertains to the reliance of therapies on the local parenchymal delivery of macromolecules or nucleic acids for success. However, the volume of distribution of many of these potential therapeutic agents is restricted by their interactions with the extracellular matrix and cellular receptors. Heparin-sulfate proteoglycans are cell surface components which bind to an array of molecules such as growth factors, cytokines and chemokines and viruses such as cytomegalovirus, herpes simplex virus and HIV. The invention provides a method of dramatically increasing the volume of distribution and effectiveness of certain therapeutic agents after local delivery by the use of facilitating agents as described in Neuroreport. 2001 Jul 3;12(9):1961–4 entitled "Convection enhanced delivery of AAV–2 combined with heparin increases TK gene transfer in the rat brain" and in Exp Neurol. 2001 Mar;168(1):155–61 entitled "Heparin coinfusion during convection-enhanced delivery (CED) increases the distribution of the glial-derived neurotrophic factor (GDNF) ligand family in rat striatum and enhances the pharmacological activity of neurturin." These methods are especially useful when used in conjunction with technology described and claimed in the convection enhanced delivery technology claimed in U.S. patent 5,720,720

The prospective exclusive license will be royalty bearing and will comply with the terms and conditions of 35 U.S.C. 209 and 37 CFR 404.7. The prospective exclusive license may be granted unless, within sixty (60) days from the date of this published notice. NIH receives written evidence and argument that establishes that the grant of the license would not be consistent with the requirements of 35 U.S.C. 209 and 37 CFR 404.7.

Properly filed competing applications for a license filed in response to this notice will be treated as objections to the contemplated license. Comments and objections submitted in response to this notice will not be made available for public inspection, and, to the extent permitted by law, will not be released under the Freedom of Information Act, 5 U.S.C. 552.

Dated: July 5, 2006.

David R. Sadowski,

Acting Director, Division of Technology Development and Transfer, Office of Technology Transfer, National Institutes of Health.

[FR Doc. 06–6213 Filed 7–13–06; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HOMELAND SECURITY

Office of the Secretary

Welcome to the United States Survey

AGENCY: Office of the Secretary, Office of Policy, Private Sector Office, DHS.

ACTION: Emergency submission to OMB, comment request.

The Department of Homeland, Office of the Secretary, Private Sector Office has submitted the following (see below) information collection request (ICR), utilizing emergency review procedures, to the Office of Management and Budget (OMB) for review and clearance in accordance with the Paperwork Reduction Act of 1995 (Pub. L. 104–13, 44 U.S.C. chapter 35). OMB approval has been requested by July 30, 2006. A copy of this ICR, with applicable supporting documentation, may be obtained by calling the Departmental Clearance Officer.

Comments and questions about the ICR listed below should be forwarded to the Office of Information and Regulatory Affairs, Attn: OMB Desk Officer for the Department of Homeland Security, Office of Management and Budget, Room 10235, Washington, DC 20503 (OMB phone number). The Office of Management and Budget is particularly interested in comments which: [set asterisks]

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Enhance the quality, utility, and clarify of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submissions of responses. [end asterisks]

Agency: Department of Homeland Security, Office of the Secretary, Office of Policy, Private Sector Office.

Title: Welcome to the United States Survey.

OMB Number: 1601–NEW.

Frequency: One-time collection.

Affected Public: Foreign visitors into the U.S.

Number of Respondents: 939.

Estimated Time Per Respondent: 5 minutes.

Total Burden Hours: 78.25 hours.

Total Burden Cost (capital/startup): $0.00.

Total Burden Cost (operating/maintaining): $0.00.

Description: The Department of Homeland Security (DHS), Office of Policy, Private Sector Office in conjunction with Customs and Border Protection (CBP) and Research Triangle Institute, International, will interview foreign visitors entering the United States at four southern border ports of entry, three northern border ports of entry and four airport ports of entry before the Labor Day holiday in August 2006. This survey will measure how CBP is serving the American public with vigilance and integrity, while providing courteous and helpful treatment to visitors, immigrants and travelers. Additionally, this survey will further the Rice-Chertoff Initiative as has been announced by evaluating the two model airports (Dulles International Airport, Chantilly, VA, and Houston International Airport, Houston, TX) for baseline information as well as how welcomed foreign visitors feel upon entering the United States and interacting with a DHS Customs and Border Protection officer.

Scott Charbo,

Chief Information Officer.

[FR Doc. E6–11135 Filed 7–13–06; 8:45 am]

BILLING CODE 4410–10–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

[USCG–2006–25312]

Meeting of the Office of Boating Safety's Recreational Boating Safety Strategic Planning Panel

AGENCY: Coast Guard, DHS.

ACTION: Notice of meeting.

SUMMARY: The Coast Guard's Office of Boating Safety is sponsoring a panel of

representatives of the recreational boating community to discuss strategic planning goals, objectives and strategies that the Coast Guard may use to improve recreational boating safety. This meeting is open to the public.

DATES: The meeting will occur on Saturday and Sunday, July 22 and 23, 2006, from 8:30 a.m. to 5 p.m.

ADDRESSES: This meeting will occur at the Hyatt Regency Hotel, 2799 Jefferson Davis Highway, Arlington, VA. This notice is available on the Internet at *http://dms.dot.gov* and at *http://uscgboating.org*.

FOR FURTHER INFORMATION CONTACT: Jeff Ludwig, Office of Boating Safety, U.S. Coast Guard, telephone 202–267–0979, fax 202–267–4285. If you have questions on viewing material in the docket, call Renee V. Wright, Program Manager, Docket Operations, Department of Transportation, telephone 202–493–0402.

SUPPLEMENTARY INFORMATION: At the October 2004 meeting of the National Boating Safety Advisory Council (NBSAC), the Office of Boating Safety proposed to assemble a Goal-Setting Recommendation Panel. NBSAC endorsed this proposal. To facilitate this, the Coast Guard invited representatives of the recreational boating community to participate on this panel.

The Coast Guard held the meeting on February 8 and 9, 2005, in Arlington, VA. The panel considered, analyzed, and proposed recreational boating safety (RBS) performance goals that can be supported by the government, industry, and the boating public. A representative of the panel presented its conclusions at the April 2005 NBSAC meeting. Minutes of the panel's February 2005 meeting may be obtained from the person listed above under **FOR FURTHER INFORMATION CONTACT.**

The Coast Guard held a second meeting of the panel on October 8 and 9, 2005. The panel considered, analyzed, and proposed recreational boating safety program objectives related to the new RBS Program goals. A representative of the panel presented its conclusions at the November 2005 NBSAC meeting. Minutes of the panel's October 2005 meeting may be obtained from the person listed above under **FOR FURTHER INFORMATION CONTACT.**

The Coast Guard held a third meeting of the panel on February 4 through 6, 2006. The panel considered, analyzed, and proposed recreational boating safety program strategies related to the new RBS Program goals and objectives. A representative of the panel presented its conclusions at the April 2006 NBSAC meeting. Minutes of the panel's February 2006 meeting may be obtained from the person listed above under **FOR FURTHER INFORMATION CONTACT.**

At the fourth meeting of the panel on July 22 and 23, the panel will further consider and analyze the proposed strategies to support the RBS Program goals and objectives previously developed. A representative of the panel will present its conclusions at the October 2006 NBSAC meeting. We will also prepare minutes of the fourth meeting. You may obtain them from the person listed above under **FOR FURTHER INFORMATION CONTACT.**

Procedural

The meeting is open to the public. Please note that the meeting may close early if all business is finished.

Information on Services for Individuals With Disabilities

For information on facilities or services for individuals with disabilities or to request special assistance at the meeting, contact the person listed under **FOR FURTHER INFORMATION CONTACT** as soon as possible.

Dated: July 10, 2006.

B.M. Salerno,

Rear Admiral, U.S. Coast Guard, Director of Inspections and Compliance.

[FR Doc. E6–11105 Filed 7–13–06; 8:45 am]

BILLING CODE 4910–15–P

DEPARTMENT OF HOMELAND SECURITY

Bureau of Customs and Border Protection

Agency Information Collection Activities: Deferral of Duty on Large Yachts Imported for Sale

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

ACTION: Proposed collection; comments requested.

SUMMARY: The Bureau of Customs and Border Protection (CBP) of the Department of Homeland Security has submitted the following information collection request to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995: Deferral of Duty on Large Yachts Imported for Sale. This is a proposed extension of an information collection that was previously approved. CBP is proposing that this information collection be extended with a change to the burden hours. This document is published to obtain comments form the public and affected agencies. This proposed information collection was previously published in the **Federal Register** (71 FR 25599) on May 1, 2006, allowing for a 60-day comment period. This notice allows for an additional 30 days for public comments. This process is conducted in accordance with 5 CFR 1320.10.

DATES: Written comments should be received on or before August 14, 2006.

ADDRESSES: Written comments and/or suggestions regarding the items contained in this notice, especially the estimated public burden and associated response time, should be directed to the Office of Management and Budget Desk Officer at *Nathan.Lesser@omb.eop.gov*.

SUPPLEMENTARY INFORMATION: The Bureau of Customs and Border Protection (CBP) encourages the general public and affected Federal agencies to submit written comments and suggestions on proposed and/or continuing information collection requests pursuant to the Paperwork Reduction Act of 1995 (Pub. L. 104–13). Your comments should address one 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/component, including whether the information will have practical utility;

(2) Evaluate the accuracy of the agencies/components 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 collections of information on those who are to respond, including the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Title: Deferral of Duty on Large Yachts Imported for Sale.

OMB Number: 1651–0080.

Form Number: N/A.

Abstract: Section 2406(a) of the Miscellaneous Trade and Technical Corrections Act of 1999 provides that an otherwise dutiable "large yacht" may be imported without the payment of duty if the yacht is imported with the intention to offer for sale at a boat show in the U.S.

Current Actions: This submission is being submitted to extend the expiration date with a change to the burden hours.

Type of Review: Extension (with change).

Estimated Number of Respondents: 100.

Estimated Time per Respondent: 60 minutes

Estimated Total Annual Burden Hours: 100.

Estimated Total Annualized Cost on the Public: N/A.

If additional information is required contact: Tracey Denning, Bureau of Customs and Border Protection, 1300 Pennsylvania Avenue, NW., Room 3.2.C, Washington, DC 20229, at 202–344–1429.

Dated: July 10, 2006.

Tracey Denning,

Agency Clearance Officer, Information Services Branch.

[FR Doc. E6–11132 Filed 7–13–06; 8:45 am]

BILLING CODE 9111–14–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

Agency Information Collection Activities: Submission for OMB Review; Comment Request

AGENCY: Federal Emergency Management Agency, Emergency Preparedness and Response Directorate, U.S. Department of Homeland Security

ACTION: Notice and request for comments.

SUMMARY: The Federal Emergency Management Agency (FEMA) has submitted the following information collection to the Office of Management and Budget (OMB) for review and clearance in accordance with the requirements of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35). The submission describes the nature of the information collection, the categories of respondents, the estimated burden (i.e., the time, effort and resources used by respondents to respond) and cost, and includes the actual data collection instruments FEMA will use.

Title: Application for Community Disaster Loan Cancellation.

OMB Number: 1660–0082.

Abstract: Local governments may submit an Application for Loan Cancellation through the Governor's Authorized Representative to the FEMA Regional Director prior to the expiration date of the loan. FEMA has the authority to cancel repayment of all or part of a Community Disaster Loan to the extent that a determination is made that revenues of the local government during the three fiscal years following the disaster are insufficient to meet the operating budget of that local government because of disaster related revenue losses and additional unreimbursed disaster-related municipal operating expenses. Operating budget means actual revenues and expenditures of the local government as published in the official financial statements of the local government.

Affected Public: Individuals or households; Business or other for-profit; Not-for-profit institutions; Farms; Federal Government; and State, Local or Tribal Government.

Number of Respondents: 1.

Estimated Time per Respondent: 1 hour.

Estimated Total Annual Burden Hours: 1 hour.

Frequency of Response: On occasion.

Comments: Interested persons are invited to submit written comments on the proposed information collection to the Office of Information and Regulatory Affairs at OMB, Attention: Desk Officer for the Department of Homeland Security/FEMA, Docket Library, Room 10102, 725 17th Street, NW., Washington, DC 20503, or facsimile number (202) 395–7285. Comments must be submitted on or before August 14, 2006.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection should be made to Chief, Records Management, Department of Homeland Security/FEMA at 500 C Street, SW., Room 316, Washington, DC 20472, facsimile number (202) 646–3347, or e-mail address *FEMA-Information-Collections@dhs.gov.*

Dated: July 11, 2006.

Darcy Bingham,

Branch Chief, Information Resources Management Branch, Information Technology Services Division.

[FR Doc. E6–11127 Filed 7–13–06; 8:45 am]

BILLING CODE 9110–11–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

Agency Information Collection Activities: Proposed Collection; Comment Request

AGENCY: Federal Emergency Management Agency, Department of Homeland Security.

ACTION: Notice and request for comments.

SUMMARY: The Federal Emergency Management Agency, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on a continuing information collection. In accordance with the Paperwork Reduction Act of 1995, this notice seeks comments concerning the use of the Mapping Needs Update Support System (MNUSS) Data Worksheet to collect data on flood hazard mapping needs.

SUPPLEMENTARY INFORMATION: Public Law 103–325, The Riegle Community Development and Regulatory Improvement Act of 1994, Title V—National Flood Insurance Reform, section 575, Updating of Flood Maps (also known as section 575 of the National Flood Insurance Reform Act (FNIRA) of 1994), mandates that at least once every five years, the Federal Emergency Management Agency (FEMA) will assess the need to revise and update all floodplain areas and flood risk zones identified, delineated, or established under section 1360 of the National Flood Insurance Act of 1968.

Collection of Information

Title: National Flood Insurance Program—Mapping Needs Update Support System (MNUSS) Data Worksheet.

Type of Information Collection: Extension of a Currently Approved Collection.

OMB Number: 1660–0081.

Abstract: To fulfill the mandate specified in section 575 of the NFIRA, FEMA established the Mapping Needs Assessment process and the MNUSS database in order to effectively identify and document data regarding community flood hazard mapping needs. MNUSS is designed to store mapping needs at the community level. The current version of MNUSS is an interactive, web-enabled password protected database. In order to facilitate the identification and collection of communities' current flood hazard mapping needs for input into MNUSS, FEMA developed the MNUSS Data Worksheet.

Flood hazard mapping needs information enables FEMA to be more responsive to ongoing changes affecting flood hazard areas that occur in communities participating in the NFIP. The changes include, but are not limited to, new corporate limit boundaries, changes in the road network, and changes in flood hazard areas, which

affect communities' flood risks. The information is also used in providing justification for FEMA when requesting funding for flood map updates and is used along with other information to prioritize the flood hazard mapping needs of all mapped communities participating in the NFIP to assist in the allocation of annual funds for flood hazard map updates.

Affected Public: State, Local, and Tribal Governments.

Number of Respondents: 5,550.

Frequency of Response: Once every five years.

Hour Burden Per Response: 2.5.

Estimated Total Annual Burden Hours: 13,875.

Estimated Cost: $460,684.

Comments: Written comments are solicited to (a) evaluate whether the proposed data collection is necessary for the proper performance of the agency, including whether the information shall have practical utility; (b) evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (c) enhance the quality, utility, and clarity of the information to be collected; and (d) 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. Comments must be submitted on or before September 12, 2006.

Interested persons should submit written comments to Chief, Records Management Section, Information Resources Management Branch, Information Technology Services Division, Department of Homeland Security/FEMA, 500 C Street, SW., Room 316, Washington, DC 20472.

FOR FURTHER INFORMATION CONTACT: Contact Lora Eskandary, Mitigation Division, Department of Homeland Security/FEMA, at (202) 646–2717 for additional information. You may contact the Records Management Branch for copies of the proposed collection of information at facsimile number (202) 646–3347 or e-mail address: *FEMA-Information-Collections@dhs.gov.*

Dated: July 11, 2006.

Darcy Bingham,

Branch Chief, Information Resources Management Branch, Information Technology Services Division.

[FR Doc. E6–11130 Filed 7–13–06; 8:45 am]

BILLING CODE 6718–01–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–50377–N–45]

Low-Income Public Housing Operating Budget, Supporting Schedules and Related Forms

AGENCY: Office of the Chief Information Officer, HUD.

ACTION: Notice.

SUMMARY: The proposed information collection requirement described below has been submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. The Department is soliciting public comments on the subject proposal.

This information collection will ensure that Public Housing Agencies (PHAs) follow sound financial practices and the federal funds are used for eligible expenditures. PHAs use the information as a financial summary and analysis of immediate and long-term operating programs and plans to provide control over operations and achieve objectives. Information collected for (2577–0072) is being consolidated into this information collection as it is related to this program.

DATES: *Comments Due Date:* August 14, 2006.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and/or OMB approval Number (2577–0026) and should be sent to: HUD Desk Officer, Office of Management and Budget, New Executive Office Building, Washington, DC 20503; fax: 202–395–6974.

FOR FURTHER INFORMATION CONTACT: Lillian Deitzer, Reports Management Officer, QDAM, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410; e-mail Lillian Deitzer at *Lillian_L_Deitzer@HUD.gov* or telephone (202) 708–2374. This is not a toll-free number. Copies of available documents submitted to OMB may be obtained from Ms. Deitzer or from HUD's Web site at *http://www5.hud.gov:63001/po/i/icbts/collectionsearch.cfm.*

SUPPLEMENTARY INFORMATION: This notice informs the public that the Department of Housing and Urban Development has submitted to OMB a request for approval of the Information collection described below. This notice is soliciting comments from members of the public and affecting agencies concerning the proposed collection of information to: (1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (2) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information; (3) Enhance the quality, utility, and clarity of the information to be collected; and (4) Minimize the burden of the collection of information on those who are to respond; including through the use of appropriate automated collection techniques or other forms of information technology, *e.g.*, permitting electronic submission of responses.

This Notice Also Lists the Following Information

Title of Proposal: Low-income Public Housing Operating Budget, Supporting and Related Forms.

OMB Approval Number: 2577–0026.

Form Numbers: HUD–52564, HUD–52566, HUD–52567, HUD–52571, HUD–52573, HUD–52574 and HUD–52267.

Description of the Need for the Information and Its Proposed Use

This information collection will ensure that Public Housing Agencies (PHAs) follow sound financial practices and that federal funds are used for eligible expenditures. PHAs use the information as a financial summary and analysis of immediate and long-term operating programs and plans to provide control over operations and achieve objectives. Information collected for (2577–0072) is being consolidated into this information collection as it is related to this problem.

Frequency of Submission: Annually.

	Number of respondents	Annual responses	×	Hours per response	=	Burden hours
Reporting Burden	3,141	1	....	120.20	....	377,58

Total Estimated Burden Hours: 377,548.

Status: Revision of a currently approved collection.

Authority: Section 3507 of the Paperwork Reduction Act of 1995, 44 U.S.C. 35, as amended.

Dated: July 10, 2006.

Lillian L. Deitzer,

Departmental Paperwork Reduction Act Officer, Office of the Chief Information Officer.

[FR Doc. E6–11119 Filed 7–13–06; 8:45 am]

BILLING CODE 4210–67–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–5045–N–28]

Federal Property Suitable as Facilities To Assist the Homeless

AGENCY: Office of the Assistant Secretary for Community Planning and Development, HUD.

ACTION: Notice.

SUMMARY: This Notice identifies unutilized, underutilized, excess, and surplus Federal property reviewed by HUD for suitability for possible use to assist the homeless.

FOR FURTHER INFORMATION CONTACT: Kathy Ezzell, room 7266, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410; telephone (202) 708–1234; TTY number for the hearing- and speech-impaired (202) 708–2565 (these telephone numbers are not toll-free), or call the toll-free Title V information line at 1–800–927–7588.

SUPPLEMENTARY INFORMATION: In accordance with 24 CFR part 581 and section 501 of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11411), as amended, HUD is publishing this Notice to identify Federal buildings and other real property that HUD has reviewed for suitability for use to assist the homeless. The properties were reviewed using information provided to HUD by Federal landholding agencies regarding unutilized and underutilized buildings and real property controlled by such agencies or by GSA regarding its inventory of excess or surplus Federal property. This Notice is also published in order to comply with the December 12, 1988 Court Order in *National Coalition for the Homeless* v. *Veterans Administration*, No. 88–2503–OG (D.D.C.).

Properties reviewed are listed in this Notice according to the following categories: Suitable/available, suitable/unavailable, suitable/to be excess, and unsuitable. The properties listed in the three suitable categories have been reviewed by the landholding agencies, and each agency has transmitted to HUD: (1) Its intention to make the property available for use to assist the homeless, (2) its intention to declare the property excess to the agency's needs, or (3) a statement of the reasons that the property cannot be declared excess or made available for use as facilities to assist the homeless.

Properties listed as suitable/available will be available exclusively for homeless use for a period of 60 days from the date of this Notice. Where property is described as for "off-site use only" recipients of the property will be required to relocate the building to their own site at their own expense. Homeless assistance providers interested in any such property should send a written expression of interest to HHS, addressed to John Hicks, Division of Property Management, Program Support Center, HHS, room 5B–17, 5600 Fishers Lane, Rockville, MD 20857; (301) 443–2265. (This is not a toll-free number.) HHS will mail to the interested provider an application packet, which will include instructions for completing the application. In order to maximize the opportunity to utilize a suitable property, providers should submit their written expressions of interest as soon as possible. For complete details concerning the processing of applications, the reader is encouraged to refer to the interim rule governing this program, 24 CFR part 581.

For properties listed as suitable/to be excess, that property may, if subsequently accepted as excess by GSA, be made available for use by the homeless in accordance with applicable law, subject to screening for other Federal use. At the appropriate time, HUD will publish the property in a Notice showing it as either suitable/available or suitable/unavailable.

For properties listed as suitable/unavailable, the landholding agency has decided that the property cannot be declared excess or made available for use to assist the homeless, and the property will not be available.

Properties listed as unsuitable will not be made available for any other purpose for 20 days from the date of this Notice. Homeless assistance providers interested in a review by HUD of the determination of unsuitability should call the toll free information line at 1–800–927–7588 for detailed instructions or write a letter to Mark Johnston at the address listed at the beginning of this Notice. Included in the request for review should be the property address (including zip code), the date of publication in the **Federal Register**, the landholding agency, and the property number.

For more information regarding particular properties identified in this Notice (*i.e.*, acreage, floor plan, existing sanitary facilities, exact street address), providers should contact the appropriate landholding agencies at the following addresses: *COAST GUARD:* Commandant, U.S. Coast Guard, Attn: Teresa Sheinberg, 2100 Second St, SW., Rm 6109, Washington, DC 20593–0001; (202 267–6142; *COE:* Ms. Shirley Middleswarth, Army Corps of Engineers, Civil Division, 441 G Street, NW., Washington, DC 20314–1000; (202) 761–1295; *ENERGY:* Mr. John Watson, Department of Energy, Office of Engineering & Construction Management, ME–90, 1000 Independence Ave, SW., Washington, DC 20585: (202) 586–0072; *GSA:* Mr. John Kelly, Acting Deputy Assistant Commissioner, General Services Administration, Office of Property Disposal, 18th & F Streets, NW., Washington, DC 20405; (202) 501–0084; *INTERIOR:* Ms. Linda Tribby, Acquisition & Property Management, Department of the Interior, 1849 C Street, NW., MS5512, Washington, DC 20240; (202) 513–0747; *NAVY:* Mr. Warren Meekins, Associate Director, Department of the Navy, Real Estate Services, Naval Facilities Engineering Command, Washington Navy Yard, 1322 Patterson Ave., SE., Suite 1000, Washington, DC 20374–5065; (202) 685–9305; (These are not toll-free numbers).

Dated: July 6, 2006

Mark R. Johnston,

Acting Deputy Assistant, Secretary for Special Needs.

Title V, Federal Surplus Property Program

Federal Register *Report For 7/14/06*

Unsuitable Properties

Buildings (by State)

California

Bldgs. 67B, 67C
Lawrence Berkeley Natl Lab
Berkeley Co: Alameda CA 94720–
Landholding Agency: Energy
Property Number: 41200620025
Status: Excess
Reason: Extensive deterioration

Bldgs. 71E
Lawrence Berkeley Natl Lab
Berkeley Co: Alameda CA 94720–
Landholding Agency: Energy
Property Number: 41200620026
Status: Excess
Reason: Extensive deterioration

Colorado

Bldg. 187
Rocky Mountain Natl Park

Grand Lake Co: Grand CO 80447–
Landholding Agency: Interior
Property Number: 61200620006
Status: Unutilized
Reason: Extensive deterioration

Bldgs. 835, 865
Rocky Mountain Natl Park
Grand Lake Co: Grand CO 90447–
Landholding Agency: Interior
Property Number: 61200620007
Status: Unutilized
Reason: Extensive deterioration

Bldg. 889
Rocky Mountain Natl Park
Grand Lake Co: Grand CO 80447–
Landholding Agency: Interior
Property Number: 61200620008
Status: Unutilized
Reason: Extensive deterioration

Bldgs. 911, 912, 913
Rocky Mountain Natl Park
Grand Lake Co: Grand CO 80447–
Landholding Agency: Interior
Property Number: 61200620009
Status: Unutilized
Reason: Extensive deterioration

Bldg. 918
Rocky Mountain Natl Park
Grand Lake Co: Grand CO 80447–
Landholding Agency: Interior
Property Number: 61200620010
Status: Unutilized
Reason: Extensive deterioration

Bldg.
Green Mountain Power Plant
Silverthorne Co: Summit CO 80498–
Landholding Agency: Interior
Property Number: 61200620011
Status: Excess
Reason: Extensive deterioration

Guam

Bldgs. 151, 152, 153
Naval Forces Marianas
Santa Rita Co: Apra Harbor GU
Landholding Agency: Navy
Property Number: 77200630001
Status: Unutilized
Reason: Extensive deterioration

North Carolina

Preston Clark USARC
1301 N. Memorial Dr.
Greenville Co: Pitt NC 27834–
Landholding Agency: COE
Property Number: 31200620032
Status: Unutilized
Reason: Extensive deterioration

Bldg. 499
Marine Corps Air Station
Cherry Point Co: NC
Landholding Agency: Navy
Property Number: 77200620038
Status: Unutilized
Reason: Secured Area

Bldgs. 3177, 3885
Marine Corps Air Station
Cherry Point Co: NC
Landholding Agency: Navy
Property Number: 77200620039
Status: Unutilized
Reason: Secured Area

Bldg. 4473
Marine Corps Air Station
Cherry Point Co: NC
Landholding Agency: Navy
Property Number: 77200620040
Status: Unutilized
Reason: Secured Area

Bldg. 4523
Marine Corps Air Station
Cherry Point Co: NC
Landholding Agency: Navy
Property Number: 77200620041
Status: Unutilized
Reason: Secured Area

Texas

Helium Plant 10001 Interchange 552
Amarillo Co: Potter TX 79106–
Landholding Agency: GSA
Property Number: 54200620020
Status: Surplus
Reason: Extensive deterioration
GSA Number: 7–I–TX–0772–1

Virginia

Bldg. 011
Integrated Support Center
Portsmouth Co: Norfolk VA 43703–
Landholding Agency: Coast Guard
Property Number: 88200620002
Status: Excess
Reason: Secured Area

[FR Doc. E6–10849 Filed 7–13–06; 8:45 am]

BILLING CODE 4210–67–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–4513–N–25]

Credit Watch Termination Initiative

AGENCY: Office of the Assistant Secretary for Housing-Federal Housing Commissioner, HUD.

ACTION: Notice.

SUMMARY: This notice advises of the cause and effect of termination of Origination Approval Agreements taken by HUD's Federal Housing Administration (FHA) against HUD-approved mortgagees through the FHA Credit Watch Termination Initiative. This notice includes a list of mortgagees which have had their Origination Approval Agreements terminated.

FOR FURTHER INFORMATION CONTACT: The Quality Assurance Division, Office of Housing, Department of Housing and Urban Development, 451 Seventh Street, SW., Room B133–P3214, Washington, DC 20410–8000; telephone (202) 708–2830 (this is not a toll free number). Persons with hearing or speech impairments may access that number through TTY by calling the Federal Information Relay Service at (800) 877–8339.

SUPPLEMENTARY INFORMATION: HUD has the authority to address deficiencies in the performance of lenders' loans as provided in HUD's mortgagee approval regulations at 24 CFR 202.3. On May 17, 1999 (64 FR 26769), HUD published a notice on its procedures for terminating Origination Approval Agreements with FHA lenders and placement of FHA lenders on Credit Watch status (an evaluation period). In the May 17, 1999 notice, HUD advised that it would publish in the **Federal Register** a list of mortgagees, which have had their Origination Approval Agreements terminated.

Termination of Origination Approval Agreement: Approval of a mortgagee by HUD/FHA to participate in FHA mortgage insurance programs includes an Origination Approval Agreement (Agreement) between HUD and the mortgagee. Under the Agreement, the mortgagee is authorized to originate single-family mortgage loans and submit them to FHA for insurance endorsement. The Agreement may be terminated on the basis of poor performance of FHA-insured mortgage loans originated by the mortgagee. The termination of a mortgagee's Agreement is separate and apart from any action taken by HUD's Mortgagee Review Board under HUD's regulations at 24 CFR part 25.

Cause: HUD's regulations permit HUD to terminate the Agreement with any mortgagee having a default and claim rate for loans endorsed within the preceding 24 months that exceeds 200 percent of the default and claim rate within the geographic area served by a HUD field office, and also exceeds the national default and claim rate. For the 27th review period, HUD is terminating the Agreement of mortgagees whose default and claim rate exceeds both the national rate and 200 percent of the field office rate.

Effect: Termination of the Agreement precludes that branch(s) of the mortgagee from originating FHA-insured single-family mortgages within the area of the HUD field office(s) listed in this notice. Mortgagees authorized to purchase, hold, or service FHA insured mortgages may continue to do so.

Loans that closed or were approved before the termination became effective may be submitted for insurance endorsement. Approved loans are (1) those already underwritten and approved by a Direct Endorsement (DE) underwriter employed by an unconditionally approved DE lender and (2) cases covered by a firm commitment issued by HUD. Cases at earlier stages of processing cannot be submitted for insurance by the

terminated branch; however, they may be transferred for completion of processing and underwriting to another mortgagee or branch authorized to originate FHA insured mortgages in that area. Mortgagees are obligated to continue to pay existing insurance premiums and meet all other obligations associated with insured mortgages.

A terminated mortgagee may apply for a new Origination Approval Agreement if the mortgagee continues to be an approved mortgagee meeting the requirements of 24 CFR 202.5, 202.6, 202.7, 202.8 or 202.10 and 202.12, if there has been no Origination Approval Agreement for at least six months, and if the Secretary determines that the underlying causes for termination have been remedied. To enable the Secretary to ascertain whether the underlying causes for termination have been remedied, a mortgagee applying for a new Origination Approval Agreement must obtain an independent review of the terminated office's operations as well as its mortgage production, specifically including the FHA-insured mortgages cited in its termination notice. This independent analysis shall identify the underlying cause for the mortgagee's high default and claim rate. The review must be conducted and issued by an independent Certified Public Accountant (CPA) qualified to perform audits under Government Auditing Standards as provided by the General Accounting Office. The mortgagee must also submit a written corrective action plan to address each of the issues identified in the CPA's report, along with evidence that the plan has been implemented. The application for a new Agreement should be in the form of a letter, accompanied by the CPA's report and corrective action plan. The request should be sent to the Director, Office of Lender Activities and Program Compliance, 451 Seventh Street, SW., Room B133–P3214, Washington, DC 20410–8000 or by courier to 490 L'Enfant Plaza, East, SW., Suite 3214, Washington, DC 20024–8000.

Action: The following mortgagees have had their Agreements terminated by HUD:

Mortgagee name	Mortgagee branch address	HUD office jurisdictions	Termination effective date	Homeownership centers
Lifetime Financial Services	613 N W Loop 410, STE 650, San Antonio, TX 78216.	San Antonio, TX	06/14/2006	Denver.
Peoples Home Equity	142 Heritage Park Drive, Murfreesboro, TN 37129.	Nashville, TN	6/14/2006	Atlanta.
Weststar Mortgage Corp. Inc	3350 Commission CT, Woodbridge, VA 22192.	Richmond, VA	6/14/2006	Philadelphia.

Dated: July 5, 2006.

Brian D. Montgomery,

Assistant Secretary for Housing—Federal Housing Commissioner.

[FR Doc. E6–11118 Filed 7–13–06; 8:45 am]

BILLING CODE 4210–67–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Notice of Availability of a Draft Environmental Impact Report/ Environmental Impact Statement and Receipt of an Application for an Incidental Take Permit for the Orange County Southern Subregion Habitat Conservation Plan, Orange County, CA

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of availability and receipt of application.

SUMMARY: The County of Orange, Rancho Mission Viejo, and Santa Margarita Water District (Applicants) have applied to the U.S. Fish and Wildlife Service (Service) for an incidental take permit pursuant to section 10(a)(1)(B) of the Endangered Species Act of 1973, as amended (Act). The Service is requesting public comment on the Draft Orange County Southern Subregion Habitat Conservation Plan (HCP), Draft Implementing Agreement, and Draft Environmental Impact Report/ Environmental Impact Statement (EIR/EIS). The Applicants seek a permit to incidentally take 25 animal species and assurances for 7 plant species, including 25 unlisted species should any of them become listed under the Act during the term of the proposed 75-year permit. The permit is needed to authorize take of listed animal species (including harm and injury) for Covered Activities, including development and associated infrastructure in Rancho Mission Viejo, expansion of the Prima Deshecha Landfill, and the extension of La Pata Road in the approximately 132,000-acre Plan Area in southern Orange County, California.

A Draft Environmental Impact Statement, which is the Federal portion of the Draft EIR/EIS, has been prepared jointly by the Service and the County of Orange to analyze the impacts of the HCP and is also available for public review. The analyses provided in the Draft EIR/EIS are intended to inform the public of the proposed action, alternatives, and associated impacts; address public comments received during the scoping period for the Draft EIR/EIS; disclose the direct, indirect, and cumulative environmental effects of the proposed action and each of the alternatives; and indicate any irreversible commitment of resources that would result from implementation of the proposed action.

DATES: Written comments should be received on or before September 12, 2006.

ADDRESSES: Comments should be sent to Mr. Jim Bartel, Field Supervisor, U.S. Fish and Wildlife Service, Carlsbad Fish and Wildlife Office, 6010 Hidden Valley Road, Carlsbad, California 92011. You may also submit comments by facsimile to 760–918–0638.

Information, comments, and/or questions related to the EIR and the California Environmental Quality Act should be submitted to Mr. Tim Neely at the County of Orange, 300 North Flower Street, Santa Ana, California 92702; telephone 714–834–2552; facsimile 714–834–2771.

To get copies of the documents, see "Availability of Documents" under **SUPPLEMENTARY INFORMATION.**

FOR FURTHER INFORMATION CONTACT: Ms. Karen Goebel, Assistant Field Supervisor, at the Carlsbad Fish and Wildlife Office (see **ADDRESSES**); telephone 760–431–9440.

SUPPLEMENTARY INFORMATION:

Availability of Documents

Documents available for public review include the permit applications, the Public Review Draft HCP and Appendixes A–E, the Map Book (bound separately), the accompanying Draft Implementing Agreement, and the Draft EIR/EIS.

Individuals wishing copies of the documents should contact the Service

by telephone at 760–431–9440, or by letter to the Carlsbad Fish and Wildlife Office. Copies of the HCP, Draft EIR/EIS, and Draft Implementing Agreement also are available for public review, by appointment, during regular business hours, at the Carlsbad Fish and Wildlife Office (see **ADDRESSES**). Copies are also available for viewing in select local southern Orange County public libraries (listed below), the Orange County Planning Department, and at the following Web site: *http://www.ocplanning.net.*

1. Dana Point Library—Reference Desk, 33841 Niguel Road, Laguna Niguel, California 92629;

2. Laguna Hills Library—Reference Desk, 25555 Alicia Parkway, Laguna Hills, California 92653;

3. Laguna Niguel Library—Reference Desk, 30341 Crown Valley Parkway, Laguna Niguel, California 92677;

4. Mission Viejo Library—Reference Desk, 100 Civic Center, Mission Viejo, California 92691;

5. Rancho Santa Margarita Library—Reference Desk, 30902 La Promesa, Rancho Santa Margarita, California 92688;

6. San Clemente Library—Reference Desk, 242 Avenida Del Mar, San Clemente, California 92672;

7. San Juan Capistrano Library—Reference Desk, 31495 El Camino Real, San Juan Capistrano, California 92675; and

8. Orange County Resources & Development Management Department.—Tim Neely, 300 North Flower Street, Santa Ana, California 92702.

Background Information

Section 9 of the Act and its implementing Federal regulations prohibit the "take" of fish and wildlife species federally listed as endangered or threatened. Take of federally listed fish or wildlife is defined under the Act to include to kill, harm, or harass. "Harm" includes significant habitat modification or degradation that actually kills or injures listed wildlife by significantly impairing essential behavioral patterns, including breeding, feeding, and sheltering (50 CFR 17.3(c)). Under limited circumstances, the Service may issue permits to authorize incidental take; i.e., take that is incidental to, and not the purpose of, otherwise lawful activity. Although take of plant species is not prohibited under the Act, and therefore cannot be authorized under an incidental take permit, plant species are proposed to be included on the permit in recognition of the conservation benefits provided to them under the HCP. All species included on an incidental take permit would receive assurances under the Service's, "No Surprises" regulation [50 CFR 17.22(b)(5) and 17.32(b)(5)].

The Applicants seek an incidental take permit and assurances for 25 animal species and assurances for 7 plant species. Collectively, the 32 listed and unlisted species are referred to as "Covered Species" by the HCP, and include 7 plant species (1 threatened [Thread-leaved Brodiaea (*Brodiaea filifolia*] and 6 unlisted [California Scrub Oak (*Quercus berberidifolia*), Chaparral Beargrass (*Nolina cismontana*), Coast Live Oak (*Quercus agrifolia*), Coulter's Saltbush (*Atriplex coulteri*), Many-stemmed Dudleya (*Dudleya multicaulis*), and Southern Tarplant (*Centromadia parryi* var. *australis*)]); 2 invertebrate species (both endangered [Riverside Fairy Shrimp (*Streptocephalus woottoni*) and San Diego Fairy Shrimp (*Branchinecta sandiegonensis*)]); 2 fish species (unlisted [Arroyo Chub (*Gila orcutti*) and Partially-armored Threespine Stickleback (*Gasterosteus aculeatus microcephalus*)]); 2 amphibian species (1 endangered [Arroyo Toad (*Bufo californicus*)] and 1 unlisted [Western Spadefoot Toad (*Spea hammondii*)]); 7 reptile species (unlisted [California Glossy Snake (*Arizona elegans occidentalis*), Coast Patch-nosed Snake (*Salvadora hexalepis virgultea*), Northern Red-diamond Rattlesnake (*Crotalus ruber ruber*), Orange-throated Whiptail (*Aspidoscelis hyperythra*), Red Coachwhip (*Masticophis flagellum piceus*), San Diego "Coast" Horned Lizard (*Phrynosoma coronatum*), and Southwestern Pond Turtle (*Emys* [=*Clemmys*] *marmorata pallida*)]); and 12 bird species (2 endangered [Least Bell's Vireo (*Vireo bellii pusillus*) and Southwestern Willow Flycatcher (*Empidonax traillii extimus*)], 1 threatened [Coastal California Gnatcatcher (*Polioptila californica californica*)], and 9 unlisted [Burrowing Owl (*Athene cunicularia*), Coastal Cactus Wren (*Campylorhynchus brunneicapillus couesi*), Cooper's Hawk (*Accipiter cooperii*), Grasshopper Sparrow (*Ammodramus savannarum*), Long-eared Owl (*Asio otus*), Tricolored Blackbird (*Agelaius tricolor*), White-tailed Kite (*Elanus leucurus*), Yellow-breasted Chat (*Icteria virens*), and Yellow Warbler (*Dendroica petechia*)]). The permit would provide take authorization for animal species identified by the HCP as "Covered Species." Take authorized for listed covered animal species would be effective upon permit issuance. For currently unlisted covered animal species, take authorization would become effective concurrent with listing, should the species be listed under the Act during the permit term.

The HCP is intended to protect and sustain viable populations of native plant and animal species and their habitats in perpetuity through the creation of a reserve system, while accommodating continued economic development and quality of life for residents of southern Orange County.

The HCP plan area encompasses approximately 132,000 acres in southern Orange County and includes the County of Orange and Rancho Mission Viejo(RMV). It is one of two large, multiple-jurisdiction habitat planning efforts in Orange County, each of which constitutes a "subregional" plan under the State of California's Natural Community Conservation Planning Act, as amended.

As described in the Draft HCP and the Draft EIR/EIS, the proposed HCP would provide for the creation of a reserve system that protects and manages approximately 20,868 acres of habitat for the Covered Species, in addition to approximately 11,950 acres of existing County Wilderness Parkland, the 4,000-acre Audubon Starr Ranch, and approximately 7,000 acres of existing conservation elsewhere in the Southern Subregion of Orange County outside of the Cleveland National Forest. The HCP identifies the proposed reserve system that will be established as part of a Phased Dedication Program linked to phased development on RMV lands. When completed, the reserve system will include large habitat blocks for Covered Species, essential ecological processes, and biological corridors and linkages to provide for the conservation of the proposed Covered Species.

The HCP includes measures to avoid and minimize incidental take of the Covered Species, emphasizing project design modifications to protect both habitats and covered species. A monitoring and reporting plan would gauge the Plan's success based on achievement of biological goals and objectives and would ensure that conservation keeps pace with development. The HCP also includes a management program, including adaptive management, which allows for changes in the conservation program if the biological species objectives are not met or new information becomes available to improve the efficacy of the HCP's conservation strategy.

Covered Activities would include development and all associated infrastructure on RMV, Santa Margarita Water District projects off of RMV but within the plan area, Prima Deshecha

Landfill expansion, the La Pata Road improvements and extension, and grazing on portions of the Habitat Reserve. The HCP makes a provision for the inclusion of lot owners in Coto de Caza.

The Draft EIR/EIS analyzes 4 other alternatives in addition to the proposed HCP Preferred Project Alternative described above, including: An expanded conservation alternative; an alternative formulated by the County during the County zoning process; a "no-take/no-streambed alteration" alternative; and a no-project alternative.

Public Comments

The Service and County of Orange invite the public to comment on the Draft HCP, Draft Implementing Agreement, and Draft EIR/EIS [See **DATES**]. All comments received, including names and addresses, will become part of the official administrative record and may be made available to the public. This notice is provided pursuant to section 10(a) of the Act and Service regulations for implementing the National Environmental Policy Act of 1969 (40 CFR 1506.6). The Service will evaluate the application, associated documents, and comments submitted thereon to prepare a Final Environmental Impact Statement.

Dated: July 6, 2006.

Ken McDermond,

Deputy Manager, California/Nevada Operations Office, Sacramento, California.

[FR Doc. E6–10917 Filed 7–13–06; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

Indian Gaming

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Notice of Approved Tribal-State Class III Gaming Amendment.

SUMMARY: This notice publishes an approval of the amended and restated Tribal-State Compact for regulation of Class III Gaming between the Confederated Tribes of Grand Ronde and the State of Oregon.

DATES: *Effective Date:* July 14, 2006.

FOR FURTHER INFORMATION CONTACT: George T. Skibine, Director, Office of Indian Gaming Management, Office of the Deputy Assistant Secretary—Policy and Economic Development, Washington, DC 20240, (202) 219–4066.

SUPPLEMENTARY INFORMATION: Under Section 11 of the Indian Gaming Regulatory Act of 1988 (IGRA), Public Law 100–497, 25 U.S.C. 2710, the Secretary of the Interior shall publish in the **Federal Register** notice of approved Tribal-State compacts for the purpose of engaging in Class III gaming activities on Indian lands. This amendment allows for the expansion of the tribe's Video Lottery Terminals, table games as well as clarification of notice to the Oregon State Police, extension of credit, and contributions to the community fund. A section on transportation is added.

Dated: June 30, 2006.

Michael D. Olsen,

Principal Deputy Assistant Secretary—Indian Affairs.

[FR Doc. E6–11139 Filed 7–13–06; 8:45 am]

BILLING CODE 4310–4N–P

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

Indian Gaming

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Notice of Approved Tribal-State Class III Gaming Compact.

SUMMARY: This notice publishes approval of the gaming compact between the Eastern Shoshone Tribe of the Wind River Reservation and the State of Wyoming.

DATES: *Effective Date:* July 14, 2006.

FOR FURTHER INFORMATION CONTACT: George T. Skibine, Director, Office of Indian Gaming Management, Office of the Deputy Assistant Secretary—Policy and Economic Development, Washington, DC 20240, (202) 219–4066.

SUPPLEMENTARY INFORMATION: Under Section 11 of the Indian Gaming Regulatory Act of 1988 (IGRA), Public Law 100–497, 25 U.S.C. 2710, the Secretary of the Interior shall publish in the **Federal Register** notice of approved Tribal-State compacts for the purpose of engaging in Class III gaming activities on Indian lands. This compact allows the tribe to operate a Class III gaming facility.

Dated: June 30, 2006.

Michael D. Olsen,

Principal Deputy Assistant Secretary—Indian Affairs.

[FR Doc. E6–11138 Filed 7–13–06; 8:45 am]

BILLING CODE 4310–4N–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[WO–350–1430–FR–24 1A; OMB Control Number 1004–0004]

Information Collection Submitted to the Office of Management and Budget Under the Paperwork Reduction Act

The Bureau of Land Management (BLM) has sent a request to extend the current information collection to the Office of Management and Budget (OMB) under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*). On April 6, 2004, the BLM published a notice in the **Federal Register** (70 FR 17461) requesting comment on this information collection. The comment period ended on June 6, 2005. The BLM did not receive any comments. You may obtain copies of the collection of information and related forms and explanatory material by contacting the BLM Information Collection Clearance Officer at the telephone number listed below.

The OMB must respond to this request within 60 days but may request after 30 days. For maximum consideration your comments and suggestions on the requirement should be directed within 30 days to the Office of Management and Budget, Interior Department Desk Officer (1004–0004), at OMB–OIRA via facsimile to (202) 395–6566 or e-mail to *OIRA_DOKCET@omb.eop.gov*. Please provide a copy of your comments to the Bureau Information Collection Clearance Officer (WO–630), Bureau of Land Management, Eastern States Office, 7450 Boston Blvd., Springfield, Virginia 22153.

Nature of Comments: We specifically request your comments on the following:

1. Whether the collection of information is necessary for the proper functioning of the BLM, including whether the information will have practical utility;
2. The accuracy of our estimate of the information collection burden, including the validity of the methodology and assumptions we use;
3. Ways to enhance the quality, utility and clarity of the information we collect; and
4. Ways to minimize the information collection burden on those who are to respond, including the use of appropriate automated, electronic, mechanical, or other forms of information technology.

Title: Desert Land Entry Application (43 CFR Part 2520).

OMB Control Number: 1004–0004.

Bureau Form Number: 2520–1.

Abstract: The Bureau of Land Management (BLM) collects and uses this information to determine if an individual is eligible to make a desert land entry to reclaim, irrigate, and cultivate arid and semiarid public lands administered by the BLM in the Western States.

Frequency: Once.

Description of Respondents: Individuals, small businesses, and large corporations.

Estimated Completion Time: 2 hours.

Annual Responses: 4.

Average Application Processing Fee per Response: $15.

Annual Burden Hours: 8.

Bureau Clearance Officer: Ted Hudson, (202) 452–5033.

Dated: June 1, 2006.

Ted R. Hudson,

Bureau of Land Management, Information Collection Clearance Officer.

[FR Doc. 06–6233 Filed 7–13–06; 8:45 am]

BILLING CODE 4310–84–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

Notice of Availability of the Hollister Proposed Resource Management Plan and Final Environmental Impact Statement; California

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of availability.

SUMMARY: In accordance with the National Environmental Policy Act of 1969 (NEPA, 42 U.S.C. 4321 *et seq.*) and the Federal Land Policy and Management Act of 1976 (FLPMA, 43 U.S.C. 1701 *et seq.*), the Bureau of Land Management (BLM) has prepared a proposed Resource Management Plan/Final Environmental Impact Statement (PRMP/FEIS) for certain public lands managed by the Hollister Field Office.

DATES: The BLM Planning Regulations (43 CFR 1610.5–2) state that any person who participated in the planning process, and has an interest which is or may be adversely affected, may protest BLM's approval of a RMP. You must file a protest within 30 days of the date that the Environmental Protection Agency publishes this Notice of Availability in the **Federal Register**. Instructions for filing of protests are described in the PRMP/FEIS and in the **SUPPLEMENTARY INFORMATION** section of this notice.

FOR FURTHER INFORMATION CONTACT: Sky Murphy, 20 Hamilton Court, Hollister, CA 95023; (831) 630–5039; *Sky_Murphy@ca.blm.gov.*

SUPPLEMENTARY INFORMATION: The planning area covers approximately 278,000 surface acres and approximately 443,806 acres of subsurface mineral estate within the following California counties: Alameda; Contra Costa; Monterey; San Benito; San Mateo; Santa Clara; Santa Cruz; and portions of Fresno; Merced; and San Joaquin counties. The Hollister RMP, when completed, will provide management guidance for use and protection of the resources in the Southern Diablo Range and Central Coast areas managed by the Hollister Field Office. The Hollister Proposed RMP/Final EIS has been developed through a collaborative planning process. The primary issues addressed include: recreation; protection of sensitive natural and cultural resources; livestock grazing; guidance for energy and mineral development; land tenure adjustments; and other planning issues raised during the scoping process.

The Hollister Draft RMP/EIS was released for public comment on October 14, 2005. During the 104 day public comment period, BLM received approximately 1500 comments, which are responded to in the Proposed RMP/Final EIS. Public comments resulted in the addition of clarifying text, but did not significantly change proposed land use decisions.

Copies of the Hollister Proposed RMP/Final EIS have been sent to affected Federal, State, and local Government agencies and to interested parties. Copies of the Proposed RMP/Final EIS are available for public inspection at the BLM Hollister Field Office, the Fort Ord Project Office, the BLM California State Office, and at the public libraries in Hollister, Monterey, Santa Cruz, San Jose, and Fresno. Interested persons may also review the Proposed RMP/Final EIS on the Internet at *http://www.blm.gov/ca/hollister.*

Instructions for filing a protest with the Director of the BLM regarding the Proposed Plan/Final EIS may be found at 43 CFR 1610.5–2. A protest may only raise those issues which were submitted for the record during the planning process. E-mail and faxed protests will not be accepted as valid protests unless the protesting party also provides the original letter by either regular or overnight mail postmarked by the close of the protest period. Under these conditions, BLM will consider the e-mail or faxed protest as an advance copy and it will receive full consideration. If you wish to provide the BLM with such advance notification, please direct faxed protests to the attention of the BLM protest coordinator at 202–452–5112, and e-mails to *Brenda_Hudgens-Williams@blm.gov.*

Please direct the follow-up letter to the appropriate address provided below. The protest must contain:

a. The name, mailing address, telephone number, and interest of the person filing the protest.

b. A statement of the part or parts of the plan and the issue or issues being protested.

c. A copy of all documents addressing the issue(s) that the protesting party submitted during the planning process or a statement of the date they were discussed for the record.

d. A concise statement explaining why the protestor believes the State Director's decision is wrong.

All protests must be in writing and mailed to one of the following addresses:

Regular Mail: Director (210), Attention: Brenda Williams, P.O. Box 66538, Washington, DC 20035.

Overnight Mail: Director (210), Attention: Brenda Williams, 1620 L Street, NW., Suite 1075, Washington, DC 20036.

Individual respondents may request confidentiality. If you wish to withhold your name or street address from public review or from disclosure under the Freedom of Information Act, you must state this prominently at the beginning of your protest. Such requests will be honored to the extent allowed by law. All submissions from organizations and businesses, and from individuals identifying themselves as representatives or officials of organizations or businesses, will be available for public inspection in their entirety. The Director will promptly render a decision on the protest. The decision will be in writing and will be sent to the protesting party by certified mail, return receipt requested. The decision of the Director is the final decision of the Department of the Interior.

Dated: May 11, 2006.

J. Anthony Danna,

Deputy State Director.

[FR Doc. E6–11047 Filed 7–13–06; 8:45 am]

BILLING CODE 4310–40–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[MT–922–06–1310–FI–P; MTM 93185, MTM 93188]

Notice of Proposed Reinstatement of Terminated Oil and Gas Leases MTM 93185 and MTM 93188

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: Per 30 U.S.C. 188(d), Coastal Petroleum Company timely filed petitions for reinstatement of oil and gas leases MTM 93185 and MTM 93188, Valley County, Montana. The lessee paid the required rentals accruing from the date of termination.

No leases were issued that affect these lands. The lessee agrees to new lease terms for rentals and royalties of $5 per acre and 16⅔ percent or 4 percentages above the existing competitive royalty rate. The lessee paid the $500 administration fee for the reinstatement of each lease and $163 cost for publishing this Notice.

The lessee met the requirements for reinstatement of the leases per Sec. 31 (d) and (e) of the Mineral Leasing Act of 1920 (30 U.S.C. 188). We are proposing to reinstate the leases, effective the date of termination subject to:

- The original terms and conditions of the leases;
- The increased rental of $5 per acre for each lease;
- The increased royalty of 16⅔ percent or 4 percentages above the existing competitive royalty rate for each lease; and
- The $163 cost of publishing this Notice

FOR FURTHER INFORMATION CONTACT: Karen L. Johnson, Chief, Fluids Adjudication Section, BLM Montana State Office, 5001 Southgate Drive, Billings, Montana 59101–4669, 406–896–5098.

Dated: July 6, 2006.

Karen L. Johnson,

Chief, Fluids Adjudication section.

[FR Doc. E6–11074 Filed 7–13–06; 8:45 am]

BILLING CODE 4310–$$–P

DEPARTMENT OF THE INTERIOR

National Park Service

Draft Environmental Impact Statement/ General Management Plan; Olympic National Park; Clallam County, WA

Summary: Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969, 42 U.S.C. 4332(2)(C) and the Council of Environmental Quality implementing regulations (40 CFR parts 1500–08), the National Park Service announces the availability of the Draft Environmental Impact Statement/ General Management Plan (Draft EIS/ GMP) for Olympic National Park. The purpose of the Draft EIS/GMP is to set forth the basic management philosophy for the park, to define resource conditions, wilderness objectives, and visitor experiences to be achieved within the park, and to provide the framework for addressing issues and achieving identified management objectives for the next 15 to 20 years. In addition to a "no-action" alternative (which would maintain current management), the Draft EIS/GMP describes and analyzes three "action" alternatives that respond to public concerns and issues identified during the scoping process, as well as NPS's conservation planning requirements. These alternatives present varying management strategies that address visitor use and the preservation of cultural and natural resources within the park. The potential environmental consequences of each alternative, and mitigation strategies, are identified and analyzed.

Scoping Background: A Notice of Intent announcing the preparation of the Draft EIS/GMP was published in the **Federal Register** on June 4, 2001. Public engagement has included public meetings, newsletter mailings, local press releases, and website postings. In June 2001 a scoping newsletter was distributed to approximately 800 people on the park's mailing list. In addition, during September and October 2001, public scoping meetings were held in several locations around the Olympic Peninsula and in Seattle and Silverdale, Washington. Hundreds of comments were received during the scoping process. In January 2002, a newsletter was distributed to summarize the planning issue and concerns brought forward during scoping, and to announce five workshops that were held in the area in late January to seek public assistance in developing alternatives. This was followed by the releases of a preliminary alternatives newsletter (distributed in May 2003) and a park update newsletter (distributed November 2004) to the project mailing list, which had reached approximately 1,200 individuals, agencies, and organizations.

Proposed Plan and Alternatives: The Draft EIS/GMP describes and analyzes the environmental impacts of the "no-action" alternative and three "action" alternatives. The Draft EIS/GMP also includes alternative maps which include specific information for each front country area of the park, and identifies the "environmentally preferred" alternative (Alternative D)

Alternative A constitutes the no-action alternative and serves as an environmental baseline to facilitate comparisons between "action" alternatives. This alternative assumes that existing programs, faculties, staffing, and funding would generally continue at their current levels, and current management practices would continue.

Alternative B emphasizes cultural and natural resource protection, and natural processes would have priority over visitor access in certain areas of the park. In general, the park would be managed as a large ecosystem preserve emphasizing wilderness management for resource conservation and protection, with a reduced number of faculties to support visitation. Some roads and faculties would be moved or closed to protect natural processes, and visitor access and services in sensitive areas would be reduced.

Alternative C emphasizes increased recreational and visitor opportunities. The natural and cultural resources would be protected through management actions and resource education programs. However, maintaining access to existing faculties would be a priority, and access would be retained to all existing front country areas, and increased by improving park roads to extend the season of use. New or expanded interpretation and educational faculties would be constructed.

Alternative D is the park's preferred alternative. It was developed using components of the other alternatives, emphasizing both the protection of park resources and improving visitor experiences. Management activities would use methods to minimize adverse effects on park resources to the extent possible. Access would be maintained to existing front country areas, but roads might be modified or relocated for resource protection and/or to maintain vehicular access. Visitor education and interpretative faculties would be improved or developed to improve visitor opportunities. The preferred alternative also proposes three boundary adjustments, which includes a land exchange with the U.S. Forest Service and partnering with Washington Department of Natural Resources, and acquiring private land by willing seller only.

Public Review and Comment: The Draft EIS/GMP is now available for public review. The document can be

found on the Internet on the NPS Planning, Environment and Public Comment (PEPC) System Web site at *http://parkplanning.nps.gov/public*. Paper and electronic copies on CD–ROM are also available by request. Interested persons and organizations can obtain a copy by writing to Olympic National Park, c/o William G. Laitner, Superintendent, 600 East Park Avenue, Port Angeles, WA 98362, by telephoning 360–565–3004, or by e-mail to *olym_gmp@nps.gov*. The document is also available to be picked up in person during normal business hours at the headquarters of Olympic National Park, 600 East Park Avenue, Port Angeles, WA 98362, and at the Olympic National Park and Olympic National Forest Information Station in Forks, WA. In addition, the document may be reviewed at branches of the North Olympic Library System, Timberland Regional Libraries, Jefferson County Libraries, and area college and university libraries.

All written comments must be postmarked or transmitted not later than September 15, 2006. All comments will become part of the public record. Persons wishing to comment may do so by one of several ways. Responses are encouraged online using the electronic comment form at the NPS PEPC Web site (*http://parkplanning.nps.gov*). In addition, written comments can be mailed or faxed to Olympic National Park GMP, National Park Service, Denver Service Center, P.O. Box 25287, Denver, Colorado 80225 (fax: 303–969–2736). Comments may also be hand delivered during normal business hours to the headquarters of Olympic National Park at 600 East Park Avenue, Port Angeles, WA 98362 or may be transmitted to the park by e-mail to *olym_gmp@nps.gov*. In addition, oral and written comments may be offered at one of several public open houses to be conducted in August 2006. Confirmed details on dates, locations, and times for these open houses will be announced in local newspapers, on the park's Web site (*http://www.nps.gov/olym*), or may be obtained by telephone at (360) 565–3130.

Regardless of how written comments are submitted, please note that names and addresses of all respondents will become part of the public record. It is the practice of the NPS to make all comments, including names and addresses of respondents who provide that information, available for public review following the conclusion of the NEPA process. Individuals may request that the NPS withhold their name and/or address from public disclosure. If you wish to do so, you must state this prominently at the beginning of your letter or written response. For those commentators who wish to use the PEPC Web site, such a request can be made by checking the box "keep my contact information private". NPS will honor all such requests to the extent allowable by law, but you should be aware that NPS may still be required to disclose your name and address pursuant to the Freedom of Information Act.

Decision Process: Following the release of the Draft EIS/GMP, all public and agency comments received will be carefully considered in preparing the final document. The final plan and EIS is anticipated to be completed during winter 2006–07 and its availability will be similarly announced in the **Federal Register** and via local and regional press media. Not sooner than 30 days following the release of the Final EIS/GMP a Record of Decision would be prepared.

Completion of the Final EIS/GMP does not guarantee funds and staff for implementing the approved plan. The NPS recognizes that this is along-term plan, and, in the framework of the plan, park managers would take incremental steps to reach park management goals and objectives. While some of the actions can be accomplished with little or no funding, some actions would require more detailed implementation plans, site specific environmental analysis and/or cultural compliance, and additional funds. The park would actively seek alternative sources of funding, but there is no guarantee that all the components of the plan would be implemented.

As a delegated EIS, the official responsible for the final decision is the Regional Director, Pacific West Region; subsequently the official with responsibility for implementing the approved plan would be the Superintendent, Olympic National Park.

Dated: April 11, 2006.

Cicely A. Muldoon,

Acting Regional Director, Pacific West Region.

Editorial Note: This document was received at the Office of the Federal Register on July 11, 2006.

[FR Doc. 06–6224 Filed 7–13–06; 8:45 am]

BILLING CODE 4312–KJ–M

DEPARTMENT OF THE INTERIOR

National Park Service

Notice of Advisory Commission Meeting

AGENCY: National Park Service, Interior.

SUMMARY: Notice is hereby given in accordance with the Federal Advisory Commission Act that a meeting of the Jimmy Carter National Historic Site Advisory Commission will be held at 8:30 a.m. to 4 p.m. at the following location and date.

DATES: July 11, 2006.

ADDRESSES: The Carter Library, 453 Freedom Parkway, Atlanta, Georgia 30307.

SUPPLEMENTARY INFORMATION: The purpose of the Jimmy Carter National Historic Site Advisory Commission is to advise the Secretary of the Interior or their designee on achieving balanced and accurate interpretation of the Jimmy Carter National Historic Site. The members of the Advisory Commission are as follows: Dr. James Sterling Young, Dr. Barbara J. Fields, Dr. Donald B. Schewe, Dr. Steven H. Hochman, Dr. Jay Hakes, Director, National Park Service, Ex-Officio member.

The matters to be discussed at this meeting include the status of park development and planning activities. This meeting will be open to the public. However, facilities and space for accommodating members of the public are limited. Any member of the public may file with the commission a written statement concerning the matters to be discussed. Written statements may also be submitted to the Superintendent at the address below. Minutes of the meeting will be available at Park Headquarters for public inspection approximately 4 weeks after the meeting.

FOR FURTHER INFORMATION CONTACT: Lizzie Watts, Superintendent, Jimmy Carter National Historic Site, 300 North Bond Street, Plains, Georgia 31780, 229–824–4104, extension 23.

Dated: May 30, 2006.

Patricia A. Hooks,

Regional Director, Southeast Region.

[FR Doc. E6–11098 Filed 7–13–06; 8:45 am]

BILLING CODE 4312–74–P

DEPARTMENT OF THE INTERIOR

National Park Service

National Register of Historic Places; Notification of Pending Nominations and Related Actions

Nominations for the following properties being considered for listing or related actions in the National Register were received by the National Park Service before July 1, 2006. Pursuant to § 60.13 of 36 CFR part 60 written comments concerning the significance of these properties under

the National Register criteria for evaluation may be forwarded by United States Postal Service, to the National Register of Historic Places, National Park Service, 1849 C St., NW., 2280, Washington, DC 20240; by all other carriers, National Register of Historic Places, National Park Service, 1201 Eye St., NW., 8th floor, Washington DC 20005; or by fax, 202–371–6447. Written or faxed comments should be submitted by July 29, 2006.

John W. Roberts,

Acting Chief, National Register/National Historic Landmarks Program.

ILLINOIS

Cook County

Eugene Field Park, (Chicago Park District MPS) 5100 N. Ridgeway Ave., Chicago, 06000677

First Congregational Church of Western Springs, 1106 Chestnut St., Western Springs, 06000673

Grand Crossing Park, (Chicago Park District MPS) 7655 S. Ingleside Ave., Chicago, 06000678

Jefferson Park, (Chicago Park District MPS) 4822 N. Long Ave., Chicago, 06000679

Lake County

Deerpath Hill Estates Historic District, (Deerpath Hill Estates: an English Garden Development in Lake Forest, Illinois MPS) Roughly bounded by Northcliffe Way, King Muir Rd. and Waukegan Rd., Lake Forest, 06000676

Lee County

Lowell Park, (Dixon Parks MPS) 2114 Lowell Park Rd., Dixon, 06000680

Pike County

Church of Christ, 102 Main St., Perry, 06000675

Winnebago County

Barber—Colman Company Historic District, 100 Loomis, 1202–1322 (even) Rock St., Rockford, 06000674

IOWA

Dubuque County

Security Building, (Dubuque, Iowa MPS) 800 Main St., Dubuque, 06000681

LOUISIANA

East Baton Rouge Parish

Knox Building, 447 Third St., Baton Rouge, 06000684

Welsh—Levy Building, 455–65 Third St., Baton Rouge, 06000685

MISSOURI

Jasper County

Gentry Apartments, 318 S. Wall St., Joplin, 06000683

Ridgway Apartments, 402 S. Byers Ave. and 404 S. Byers Ave., Joplin, 06000682

NEW JERSEY

Cape May County

Corson, John, Jr., House, 1542 S. Shore Rd., Upper Township, 06000686

Hudson County

Bayonne Trust Company, 229–231 Broadway, Bayonne, 06000693

NORTH CAROLINA

Alamance County

Morrow, William P., House, NC 2146, 0.1 mi. W of jct. with NC 2145 (3017 Saxapahaw-Bethlehem Church Rd.), Graham, 06000687

Buncombe County

West Asheville End of Car Line Historic District, Both sides of Haywood Rd. from 715 to 814 and 7–9 Brevard Rd., Asheville, 06000691

Craven County

DeGraffenried Park Historic District, Roughly bounded by Neuse Blvd., Fort Totten Dr., Trent Rd. and Chattawka Ln., New Bern, 06000689

Davidson County

Salem Street Historic District, 108–301 Salem St., 6–12 Forsyth St., and 6 Leonard St., Thomasville, 06000688

Hoke County

Raeford Historic District, Roughly bounded by Jackson St., E. Central Ave., the Aberdeen and Rockfish, and E and W Elwood Ave., Raeford, 06000690

Johnston County

Four Oaks Commercial Historic District, 100–300 blks N. Main, 100–200 blks S. Main, 100 blk S.W. Railroad, 100 blk W Wellons St. & 100 blk W. Woodall St., Four Oaks, 06000692

OHIO

Monroe County

First United Methodist Church, 136 N. Main St., Woodsfield, 06000694

Montgomery County

Kenilworth Avenue Historic District, 1131–1203 Salem Ave., 701–761 Kenilworth, Dayton, 06000695

Preble County

West Alexandria Depot, 71 E. Dayton St., West Alexandria, 06000696

SOUTH CAROLINA

Beaufort County

Charleston Navy Yard Historic District, Portions of Ave A,B,D, 2nd, 4th, Hayter, N. Hobson Sts., McMillan Ave., Machinists, Pierside, Pipefitters Sts., etc., North Charleston, 06000699

TENNESSEE

Giles County

Bridgeforth High School, 1095 Bledsoe Rd., Pulaski, 06000697

Original Church of God, (Rural African-American Churches in Tennessee MPS) 115 Gordon St., Pulaski, 06000698

VERMONT

Caledonia County

Toll House, 2028 Mountain Rd., Burke, 06000704

Washington County

Bridge 31, (Metal Truss, Masonry, and Concrete Bridges in Vermont MPS) Winooski St., Waterbury, 06000703

WASHINGTON

Snohomish County

North Cost Casket Company Building, 1210 W. Marine View Dr., Everett, 06000700

Spokane County

Tuell, Frank and Maude, House, 416 W. 22nd Ave., Spokane, 06000702

Whitman County

College Hill Historic District, Roughly bounded by Stadium Way, B St., Howard St., and Indiana St., Pullman, 06000701

[FR Doc. E6–11124 Filed 7–13–06; 8:45 am]

BILLING CODE 4312–51–P

DEPARTMENT OF JUSTICE

Executive Office for Immigration Review

[EOIR No. 153]

Revised General Practice Regarding First Briefing Deadline Extension Request for Detained Aliens

AGENCY: Board of Immigration Appeals, Executive Office for Immigration Review, Department of Justice.

ACTION: Notice.

SUMMARY: This notice advises of a revised general practice to be followed by the Board of Immigration Appeals regarding briefing deadlines for cases before the Board in which the alien is detained. The additional time period

granted for a first briefing extension will generally be reduced from 21 days to 15 days, and the number of extension requests granted will generally be reduced from one per party to one per case.

DATES: This notice is effective on August 14, 2006.

FOR FURTHER INFORMATION CONTACT: MaryBeth Keller, General Counsel, Executive Office for Immigration Review, 5107 Leesburg Pike, Suite 2600, Falls Church, Virginia 22041; telephone (703) 305–0470 (not a toll free call).

SUPPLEMENTARY INFORMATION: The Board of Immigration Appeals (Board) has the authority to set and extend briefing deadlines in all cases pending before it. 8 CFR 1003.3(c). The regulations state that in cases involving aliens in custody, the parties shall be provided 21 days in which to file simultaneous briefs unless a shorter period is specified by the Board. *Id.* In cases involving aliens who are not in custody, the briefing period is also 21 days, but the briefing period is sequential. *Id.* The regulations state that the Board, upon written motion, may extend the period for filing a brief for up to 90 days for good cause shown. *Id.* While the regulations do not limit the briefing extension period any further, the Board has established a policy for briefing extension requests in the Board of Immigration Appeals Practice Manual.\

The Board Practice Manual provides that the filing of an extension request does not automatically extend the briefing deadline, and until the Board affirmatively grants an extension request, the existing deadline still stands. Practice Manual Chapter 4.7(c). Prior to the publication of this Notice, the Practice Manual did not distinguish between detained and non-detained aliens with regard to briefing extension requests. The Practice Manual provided that, as a matter of policy, the Board would grant one extension per party, and that party was given an additional 21 days in which to file a briefs regardless of the time requested. Practice Manual Chapter 4.7(c)(i). Those 21 days were added to the original filing deadline for both parties.

In an effort to further reduce the amount of time a detained alien is in proceedings, the Board is revising this general policy and procedure. In the future, when an alien is in detention, the Board will, as a matter of policy and procedure, ordinarily grant one extension request per case for 15 days. A first extension request from either party, if granted, will extend the briefing deadline for both parties. If the opposing party thereafter submits an extension request, it will be considered a second extension request. As noted in the Board Practice Manual, second extension requests are only granted in rare circumstances. The Board's policy as set forth in Practice Manual Chapter 4.7(c)(i) will accordingly be amended to reflect this change.

At present, because briefing is simultaneous, extension requests from both parties are often filed within days of each other. The result is that the Board routinely and unnecessarily grants two extension requests. The Board's new general policy will be to limit briefing extensions to one per case for detained aliens due to difficulties with administering briefing requests from both parties. This change will eliminate these unintended delays. The Board will continue to accept reply briefs filed within 14 days after expiration of the briefing schedule, though the Board will not suspend or delay adjudication of the appeal in anticipation of the filing of a reply brief.

Dated: July 6, 2006.

Lori Scialabba,

Chairman, Board of Immigration Appeals.

[FR Doc. 06–6221 Filed 7–13–06; 8:45 am]

BILLING CODE 4410–30–M

DEPARTMENT OF LABOR

Office of the Secretary

Submission for OMB Review: Comment Request

July 10, 2006.

The Department of Labor (DOL) has submitted the following public information collection request (ICR) to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995 (Pub. L. 104–13, 44 U.S.C. chapter 35). A copy of this ICR, with applicable supporting documentation, may be obtained by contacting Darrin King on 202–693–4129 (this is not a toll-free number) or e-mail: *king.darrin@dol.gov*.

Comments should be sent to Office of Information and Regulatory Affairs, Attn: OMB Desk Officer for the Employment Standards Administration (ESA), Office of Management and Budget, Room 10235, Washington, DC 20503, 202–395–7316 (this is not a toll-free number), within 30 days from the date of this publication in the **Federal Register**.

The OMB is particularly interested in comments which:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Enhance the quality, utility, and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.*, permitting electronic submission of responses.

Agency: Employment Standards Administration.

Type of Review: Extension of currently approved collection.

Title: Health Insurance Claim Form.

OMB Number: 1215–0055.

Form Number: OWCP–1500.

Frequency: On occasion.

Type of Response: Reporting.

Affected Public: Business or other for-profit; Note-for-profit institutions; and Individuals or households.

Number of Respondents: 735,000.

Estimated Annual Responses: 2,940,000.

Average Response Time: 7 minutes.

Annual Burden Hours: 342,908.

Total Annualized capital/startup costs: $0.

Total Annual Costs (operating/maintaining systems or purchasing services): $0.

Description: The Office of Workers' Compensation Programs (OWCP) is the agency responsible for administration of the Federal Employees' Compensation Act (FECA), 5 U.S.C. 8101, *et seq.*, the Black Lung Benefits Act (BLBA), 30 U.S.C. 901 *et seq.* and the Energy Employees Occupational Illness Compensation Program Act of 2000 (EEOICPA), 42 U.S.C. 7384 *et seq.* All three of these statutes require that OWCP pay for medical treatment of beneficiaries; BLBA also requires that OWCP pay for medical examinations and related diagnostic services to determine eligibility for benefits under that statute. In order to determine whether billed amounts are appropriate, OWCP needs to identify the patient, the injury or illness that was treated or diagnosed, the specific services that are rendered and their relationship to the work-related injury or illness. The regulations implementing these statutes require the use of Form OWCP–1500 for medical bills submitted by certain

physicians and other providers (20 CFR 10.801, 30.701, 725.405, 725.406, 725.701 and 725.704). The OWCP–1500 is used by OWCP and contractor bill payment staff to process bills for medical services provided by medical professionals other than medical services provided by hospitals, pharmacies, and certain other providers.

Darrin A. King,

Acting Departmental Clearance Officer.

[FR Doc. E6–11081 Filed 7–13–06; 8:45 am]

BILLING CODE 4510–23–P

DEPARTMENT OF LABOR

Office of the Secretary

Submission for OMB Review: Comment Request

July 3, 2006.

The Department of Labor (DOL) has submitted the following public information collection request (ICR) to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995 (Pub. L. 104–13, 44 U.S.C. Chapter 35). A copy of this ICR, with applicable supporting documentation, may be obtained by contacting Ira Mills at the Department of Labor on 202–693–4122 (this is not a toll-free number) or E-Mail: *Mills.Ira@dol.gov*. This ICR can also be accessed online at *http://www.doleta.gov/OMBCN/OMBControlNumber.cfm*.

Comments should be sent to Office of Information and Regulatory Affairs, Attn: OMB Desk Officer for ETA, Office of Management and Budget, Room 10235, Washington, DC 20503, 202–395–7316 (this is not a toll free number), within 30 days from the date of this publication in the **Federal Register**.

The OMB is particularly interested in comments which:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Enhance the quality, utility and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Agency: Employment and Training Administration (ETA)

Type of Review: Extension of a currently approved collection.

Title: Weekly Claims and Extended Benefits Data and Weekly Initial and Continued Weeks Claimed.

OMB Number: 1205–0028.

Frequency: Weekly.

Affected Public: State, Local, or Tribal Government.

Type of Response: Reporting.

Number of Respondents: 53.

Annual Responses: 5512.

Average Response Time: 80 minutes.

Total Annual Burden Hours: 3,675.

Total Annualized Capital/Startup Costs: 0.

Total Annual Costs (operating/maintaining systems or purchasing services): 0.

Description: Data are necessary for the determination of the beginning, continuance, or termination of an Extended Benefit period in any State, which determine the EB trigger rate. Also, data on initial and continued claims are used to help determine economic indicators.

Ira L. Mills,

Departmental Clearance Officer/Team Leader.

[FR Doc. E6–11082 Filed 7–13–06; 8:45 am]

BILLING CODE 4510–30–P

DEPARTMENT OF LABOR

Office of the Secretary

Submission for OMB Review: Comment Request

July 6, 2006.

The Department of Labor (DOL) has submitted the following public information collection request (ICR) to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995 (Pub. L. 104–13, 44 U.S.C. chapter 35). A copy of this ICR, with applicable supporting documentation, may be obtained by contacting Darrin King on 202–693–4129 (this is not a toll-free number) or e-mail: *king.darrin@dol.gov*.

Comments should be sent to Office of Information and Regulatory Affairs, Attn: OMB Desk Officer for the Mine Safety and Health Administration (MSHA), Office of Management and Budget, Room 10235, Washington, DC 20503, 202–395–7316 (this is not a toll-free number), within 30 days from the date of this publication in the **Federal Register**.

The OMB is particularly interested in comments which:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Enhance the quality, utility, and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.*, permitting electronic submission of responses.

Agency: Mine Safety and Health Administration.

Type of Review: Extension of currently approved collection.

Title: Ground Control Plan.

OMB Number: 1219–0026.

Frequency: On occasion.

Type of Response: Reporting.

Affected Public: Business or other for-profit.

Number of Respondents: 925.

Estimated Number of Annual Responses: 313.

Average Response Time: 9 hours to develop a new plan and 6 hours to revise an existing plan.

Estimated Annual Burden Hours: 2,721.

Total Annualized capital/startup costs: $0.

Total Annual Costs (operating/maintaining systems or purchasing services): $498.

Description: Each operator of a surface coal mine is required under 30 CFR 77.1000 to establish and follow a ground control plan that is consistent with prudent engineering design and which will ensure safe working conditions. The plans are based on the type of strata expected to be encountered, the height and angle of highwalls and spoil banks, and the equipment to be used at the mine. Ground control plans are required by 30 CFR 77.1000–1 to be filed with the MSHA district Manager in the district in which the mine is located. The plans are reviewed by MSHA to ensure that highwalls, pits, and spoil banks are maintained in safe condition

through the use of sound engineering design.

Ira L. Mills,

Departmental Clearance Officer.

[FR Doc. E6–11087 Filed 7–13–06; 8:45 am]

BILLING CODE 4510–43–P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–59,136 and TA–W–59,136A]

Cranston Print Works Company, Design and Engraving Division, Cranston, RI, and New York, NY; Amended Certification Regarding Eligibility To Apply for Worker Adjustment Assistance and Alternative Trade Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 U.S.C. 2273), and Section 246 of the Trade Act of 1974 (26 U.S.C. 2813), as amended, the Department of Labor issued a Certification Regarding Eligibility to Apply for Worker Adjustment Assistance and Alternative Trade Adjustment Assistance on April 21, 2006, applicable to workers of Cranston Print Works Company, Design and Engraving Division, Cranston, Rhode Island. The notice was published in the **Federal Register** on May 10, 2006 (71 FR 27291).

At the request of the company, the Department reviewed the certification for workers of the subject firm. The workers are engaged in the production of artwork designs used by the subject firm to engrave rotary screens for printing textile fabrics.

The company reports that worker separations occurred at the New York, New York location of the subject firm where the workers create artwork design and provide administrative support functions for the subject firm's production plant located in Cranston, Rhode Island.

Based on these findings, the Department is amending the certification to include workers of the Cranston Print Works Company, Design and Engraving Division, New York, New York.

The intent of the Department's certification is to include all workers of Cranston Print Works Company, Design and Engraving Division Thomasville Furniture Industries, Inc. who were adversely affected by increased company imports.

The amended notice applicable to TA–W–59,136 is hereby issued as follows:

All workers of Cranston Print Works Company, Design and Engraving Division, Cranston, Rhode Island (TA–W–59,136) and Cranston Print Works Company Design and Engraving Division, New York, New York (TA–W–59,136A), who became totally or partially separated from employment on or after March 6, 2005, through April 21, 2008, are eligible to apply for adjustment assistance under Section 223 of the Trade Act of 1974, and are also eligible to apply for alternative trade adjustment assistance under Section 246 of the Trade Act of 1974.

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

Richard Church,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. E6–11094 Filed 7–13–06; 8:45 am]

BILLING CODE 4510–30–P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–59,439]

Dekko Technologies, Inc., A Division of Group Dekko, Mt. Ayr, IA; Notice of Termination of Investigation

Pursuant to section 221 of the Trade Act of 1974, as amended, an investigation was initiated on May 22, 2006 in response to a worker petition filed a company official on behalf of workers at Dekko Technologies, Inc., a division of Group Dekko, Mt. Ayr, Iowa.

The petitioner has requested that the petition be withdrawn. Consequently, the investigation has been terminated.

Signed at Washington, DC, this 14th day of June 2006.

Richard Church,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. E6–11091 Filed 7–13–06; 8:45 am]

BILLING CODE 4510–30–P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–59,091]

Eaton Corporation, Torque Control Products Division, Marshall, MI; Dismissal of Application for Reconsideration

Pursuant to 29 CFR 90.18(C) an application for administrative reconsideration was filed with the Director of the Division of Trade Adjustment Assistance for workers at Eaton Corporation, Torque Control Products Division, Marshall, Michigan. The application did not contain new information supporting a conclusion that the determination was erroneous, and also did not provide a justification for reconsideration of the determination that was based on either mistaken facts or a misinterpretation of facts or of the law. Therefore, dismissal of the application was issued.

TA–W–59,091; Eaton Corporation Torque Control Products Division Marshall, Michigan (June 27, 2006)

Signed at Washington, DC, this 28th day of June 2006.

Erica R. Cantor,

Director, Division of Trade Adjustment Assistance.

[FR Doc. E6–11084 Filed 7–13–06; 8:45 am]

BILLING CODE 4510–30–P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA-W–59,322]

Frame Builders Industries, Thomasville, NC; Notice of Termination of Investigation

Pursuant to section 221 of the Trade Act of 1974, as amended, an investigation was initiated on May 3, 2006, in response to a worker petition filed by a company official on behalf of workers at Frame Builders Industries, Thomasville, North Carolina.

The petitioner has requested that the petition be withdrawn. Consequently, the investigation has been terminated.

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

Richard Church,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. E6–11090 Filed 7–13–06; 8:45 am]

BILLING CODE 4510–30–P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–59,506]

Greatbatch Hittman, Inc., Columbia, MD; Notice of Termination of Investigation

Pursuant to section 221 of the Trade Act of 1974, as amended, an investigation was initiated on June 2, 2006 in response to a worker petition filed by a state agency on behalf of workers at Greatbatch Hittman, Inc., Columbia, Maryland.

The petitioner has requested that the petition be withdrawn. Consequently, the investigation has been terminated.

Signed at Washington, DC, this 20th day of June, 2006.

Elliott S. Kushner,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. E6–11093 Filed 7–13–06; 8:45 am]

BILLING CODE 4510–30–P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–59,479]

Brand Science LLC d/b/a Le Sportsac, Stearns, KY; Notice of Termination of Investigation

Pursuant to section 221 of the Trade Act of 1974, as amended, an investigation was initiated on May 26, 2006 in response to a worker petition filed by a company official on behalf of workers at Brand Science LLC d/b/a Le Sportsac, Stearns, Kentucky.

The petitioning group of workers is covered by an active certification, (TA–W–58,480) which expires on January 6, 2008. Consequently, further investigation in this case would serve no purpose, and the investigation has been terminated.

Signed at Washington, DC, this 14th day of June 2006.

Richard Church,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. E6–11092 Filed 7–13–06; 8:45 am]

BILLING CODE 4510–30–P

DEPARTMENT OF LABOR

Employment and Training Administration

Investigations Regarding Certifications of Eligibility To Apply for Worker Adjustment Assistance and Alternative Trade Adjustment Assistance

Petitions have been filed with the Secretary of Labor under Section 221(a) of the Trade Act of 1974 ("the Act") and are identified in the Appendix to this notice. Upon receipt of these petitions, the Director of the Division of Trade Adjustment Assistance, Employment and Training Administration, has instituted investigations pursuant to Section 221(a) of the Act.

The purpose of each of the investigations is to determine whether the workers are eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act. The investigations will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved.

The petitioners or any other persons showing a substantial interest in the subject matter of the investigations may request a public hearing, provided such request is filed in writing with the Director, Division of Trade Adjustment Assistance, at the address shown below, not later than July 24, 2006.

Interested persons are invited to submit written comments regarding the subject matter of the investigations to the Director, Division of Trade Adjustment Assistance, at the address shown below, not later than July 24, 2006.

The petitions filed in this case are available for inspection at the Office of the Director, Division of Trade Adjustment Assistance, Employment and Training Administration, U.S. Department of Labor, Room C–5311, 200 Constitution Avenue, NW., Washington, DC 20210.

Signed at Washington, DC this 28th day of June 2006.

Erica R. Cantor,

Director, Division of Trade Adjustment Assistance.

APPENDIX

[TAA petitions instituted between 6/20/06 and 6/23/06]

TA–W	Subject firm (petitioners)	Location	Date of institutions	Date of petition
59583	NIBCO (Comp)	South Glens Falls, NY	06/20/06	06/01/06
59584	Republic Conduit (USW)	Elyria, OH	06/20/06	06/16/06
59585	Re-Source America, Inc. (Comp)	Mebane, NC	06/20/06	05/25/06
59586	Klaussner Furniture Industries, Inc. (Comp)	Candor, NC	06/20/06	06/16/06
59587	Suntron Northeast Operations (NEO) (Comp)	Lawrence, MA	06/20/06	06/14/06
59588	Ames True Temper Inc. (State)	Falls City, NE	06/20/06	06/19/06
59589	JB–DM Jewelry, LLC (State)	Los Angelos, CA	06/20/06	06/14/06
59590	Kenda Knits Inc. (Comp)	Clover, SC	06/20/06	06/19/06
59591	JP Morgan Chase (Union)	Houston, TX	06/20/06	06/19/06
59592	Border Apparel Laundry, LP (Comp)	El Paso, TX	06/21/06	06/19/06
59593	Rauch Industries, Inc. (Wkrs)	Gastonia, NC	06/21/06	06/20/06
59594	C and D Technologies, Inc. (Wkrs)	Tucson, AZ	06/21/06	06/20/06
59595	Comor Inc. (Comp)	Cochranton, PA	06/21/06	06/19/06
59596	Gujarat Glass International (GGI) (Comp)	Park Hills, MO	06/21/06	06/20/06
59597	Fisher Dynamics (State)	St. Clair Shores, MI	06/21/06	06/21/06
59598	Waste Management Inc. (UAW)	St. Louis, MO	06/21/06	06/19/06
59599	Griffco Quality Solutions (UAW)	St. Louis, MO	06/21/06	06/19/06
59600	Cooper Tools/Nicholson File (Comp)	Cullman, AL	06/21/06	06/21/06
59601	Hospira (USW)	Ashland, OH	06/21/06	06/21/06
59602	Alliant Techsystems (Union)	Radford, VA	06/21/06	06/21/06
59603	Somitex Prints of California, Inc./Production (State)	City of Industry, CA	06/21/06	06/21/06
59604	Georgia Pacific (State)	Savannah, GA	06/21/06	06/21/06
59605	Fuji Photo Film, Inc. (Comp)	Greenwood, SC	06/22/06	06/21/06
59606	Panasonic (Wkrs)	Secaucus, NJ	06/22/06	06/19/06
59607	American Truetzschler Inc. (Comp)	Charlotte, NC	06/22/06	06/20/06
59608	Eaton Oklahoma City Clutch Plant (Comp)	Oklahoma City, OK	06/22/06	06/21/06
59609	Hodges Wood Products Inc. (Comp)	Marietta, MS	06/22/06	06/21/06
59610	E C Service Inc. (Wkrs)	New York, NY	06/22/06	06/16/06
59611	Tree Frog Studios (Comp)	Hendersonville, NC	06/22/06	06/21/06
59612	Tietex Interiors (Comp)	Rocky Mount, NC	06/22/06	06/21/06
59613	Burle Industries (Comp)	Lancaster, PA	06/22/06	06/21/06

APPENDIX—Continued

[TAA petitions instituted between 6/20/06 and 6/23/06]

TA–W	Subject firm (petitioners)	Location	Date of institutions	Date of petition
59614	Ottawa Rubber Company (Comp)	Bradner, OH	06/22/06	06/21/06
59615	Belden CDT (Comp)	Tompkinsville, KY	06/22/06	06/22/06
59616	Sure Fit, Inc. (Wkrs)	Allentown, PA	06/23/06	06/23/06
59617	Rosemount Analytical, Inc. (Comp)	Irvine, CA	06/23/06	06/21/06
59618	Seco's Carboloy, Inc. (Union)	Warren, MI	06/23/06	06/19/06
59619	Williams Controls, Inc. (Union)	Portland, OR	06/23/06	06/20/06
59620	Desa International, LLC (Wkrs)	Bowling Green, KY	06/23/06	06/16/06

[FR Doc. E6–11086 Filed 7–13–06; 8:45 am]
BILLING CODE 4510–30–P

DEPARTMENT OF LABOR

Employment and Training Administration

Notice of Determinations Regarding Eligibility To Apply for Worker Adjustment Assistance and Alternative Trade Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974, as amended (19 U.S.C. 2273) the Department of Labor herein presents summaries of determinations regarding eligibility to apply for trade adjustment assistance for workers (TA–W) number and alternative trade adjustment assistance (ATAA) by (TA–W) number issued during the period of June, 2006.

In order for an affirmative determination to be made for workers of a primary firm and a certification issued regarding eligibility to apply for worker adjustment assistance, each of the group eligibility requirements of Section 222(a) of the Act must be met.

I. Section (a)(2)(A) all of the following must be satisfied:

A. A significant number or proportion of the workers in such workers' firm, or an appropriate subdivision of the firm, have become totally or partially separated, or are threatened to become totally or partially separated;

B. The sales or production, or both, of such firm or subdivision have decreased absolutely; and

C. Increased imports of articles like or directly competitive with articles produced by such firm or subdivision have contributed importantly to such workers' separation or threat of separation and to the decline in sales or production of such firm or subdivision; or

II. Section (a)(2)(B) both of the following must be satisfied:

A. A significant number or proportion of the workers in such workers' firm, or an appropriate subdivision of the firm, have become totally or partially separated, or are threatened to become totally or partially separated;

B. There has been a shift in production by such workers' firm or subdivision to a foreign country of articles like or directly competitive with articles which are produced by such firm or subdivision; and

C. One of the following must be satisfied:

1. The country to which the workers' firm has shifted production of the articles is a party to a free trade agreement with the United States;

2. The country to which the workers' firm has shifted production of the articles to a beneficiary country under the Andean Trade Preference Act, African Growth and Opportunity Act, or the Caribbean Basin Economic Recovery Act; or

3. There has been or is likely to be an increase in imports of articles that are like or directly competitive with articles which are or were produced by such firm or subdivision.

Also, in order for an affirmative determination to be made for secondarily affected workers of a firm and a certification issued regarding eligibility to apply for worker adjustment assistance, each of the group eligibility requirements of Section 222(b) of the Act must be met.

(1) Significant number or proportion of the workers in the workers' firm or an appropriate subdivision of the firm have become totally or partially separated, or are threatened to become totally or partially separated;

(2) The workers' firm (or subdivision) is a supplier or downstream producer to a firm (or subdivision) that employed a group of workers who received a certification of eligibility to apply for trade adjustment assistance benefits and such supply or production is related to the article that was the basis for such certification; and

(3) Either—

(A) The workers' firm is a supplier and the component parts it supplied for the firm (or subdivision) described in paragraph (2) accounted for at least 20 percent of the production or sales of the workers' firm; or

(B) A loss or business by the workers' firm with the firm (or subdivision) described in paragraph (2) contributed importantly to the workers' separation or threat of separation.

In order for the Division of Trade Adjustment Assistance to issued a certification of eligibility to apply for Alternative Trade Adjustment Assistance (ATAA) for older workers, the group eligibility requirements of section 246(a)(3)(A)(ii) of the Trade Act must be met.

1. Whether a significant number of workers in the workers' firm are 50 years of age or older.

2. Whether the workers in the workers' firm possess skills that are not easily transferable.

3. The competitive conditions within the workers' industry (i.e., conditions within the industry are adverse).

Affirmative Determinations For Worker Adjustment Assistance

The following certifications have been issued. The date following the company name and location of each determination references the impact date for all workers of such determination.

The following certifications have been issued. The requirements of Section 222(a)(2)(A) (increased imports) of the Trade Act have been met.

TA–W–59,469; Simclar, Inc., On-Site Leased Workers of Teamsource, Round Rock, TX: May 24, 2005.

TA–W–59,449; Technical Associates, Leased Wkrs at the R.J. Reynolds Tobacco Co., Macon, GA: June 24, 2006.

The following certifications have been issued. The requirements of Section 222(a)(2)(B) (shift in production) of the Trade Act have been met.

TA–W–59,249; New Breed Corp., Workers at Panasonic Home Appliances Co., Danville, KY: April 17, 2005.

TA–W–59,417; Laser Technologies and Services, Inc., A Division of Mitsubishi Chemical America, Exton, PA: May 17, 2005.

TA–W–59,499; Dana Corporation, Coupled Product, Fluid Routing Products Group, Mitchell, IN: May 26, 2005.

TA–W–59,396; GE Advanced Materials—Quartz, Quartz Willoughby Quartz Plant, Willoughby, OH: May 15, 2005.

The following certifications have been issued. The requirements of Section 222(b) (supplier to a firm whose workers are certified eligible to apply for TAA) of the Trade Act have been met.

TA–W–59,490; Pace Industries, Georgia Warehouse, Midland, GA: May 30, 2005.

TA–W–58984; Independent Steel Casting Co., Inc., New Buffalo, MI: March 2, 2005.

The following certifications have been issued. The requirements of Section 222(b) (downstream producer for a firm whose workers are certified eligible to apply for TAA based on increased imports from or a shift in production to Mexico or Canada) of the Trade Act have been met.

None

Affirmative Determinations for Worker Adjustment Assistance and Alternative Trade Adjustment Assistance

The following certifications have been issued. The date following the company name and location of each determination references the impact date for all workers of such determination.

The following certifications have been issued. The requirements of Section 222(a)(2)(A) (increased imports) and Section 246(a)(3)(A)(ii) of the Trade Act have been met.

TA–W–59,397; Tyden Seal Company (The), A Subsidiary of Tyden Group, Inc., Hastings, MI: May 15, 2005.

TA–W–59,401; Worth Sports, A Subsidiary of Rawlings Sporting Goods Co., Tullahoma, TN: April 3, 2006.

TA–W–59,401A; Worth Sports, A Subsidiary of Rawlings Sporting Goods Co., Tullahoma, TN: April 3, 2006.

TA–W–59,433; BBA Nonwovens Simpsonville, Inc., A Subsidiary of BBA Group PLC, Simpsonville, SC: May 17, 2005.

TA–W–59,441; C.N.C. Department of Four Seasons, Division of Standard Motor Products, Grapevine, TX: May 22, 2005.

TA–W–59,462; Hugo Bosca Company, Inc., Springfield, OH: May 23, 2005.

TA–W–59,247; Saint Gobain Advanced Ceramics, Microelectronics Division, Sanborn, NY: April 16, 2005.

TA–W–59,332; Plastic Technology Group, Inc., On-Site Leased Wkrs of Select Personnel Services, Santa Ana, CA: May 4, 2005.

TA–W–59,349; P.H. Glatfelter Co., dba Glatfelter, Neenah, WI: January 10, 2006.

TA–W–59,398; Progress Casting Group, Inc., Albert Lea, MN: May 15, 2005.

TA–W–59,297; Tooling Supply NAFTA, Fair Lawn, NJ: April 25, 2005.

TA–W–59,082; Trinity Pottery, Inc., Rice Lake, WI: March 21, 2005.

The following certifications have been issued. The requirements of Section 222(a)(2)(B) (shift in production) and Section 246(a)(3)(A)(ii) of the Trade Act have been met.

TA–W–59,258; Johnson Controls, Inc., Interiors Experience Facility, Holland, MI: April 20, 2005.

TA–W–59,261; Gould Packaging, Inc., A Division of LePage's 2000, Inc., Dekalb, IL: April 20, 2005.

TA–W–59,271; World Plastic Extruders, Inc., Moonachie, NJ: April 24, 2005.

TA–W–59,295; Sony Technology Center-Pittsburgh, LCD Rear Projection Assembly, Mt. Pleasant, PA: April 27, 2005.

TA–W–59,343; NABCO, Inc., A Division of Remy International, Inc., Kaleva, MI: May 5, 2005.

TA–W–59,343A; NABCO, Inc., A Division of Remy International, Inc., Reed City, MI: May 5, 2005.

TA–W–59,412; Archway and Mother's Cake & Cookie Co., East Division, Oakland, CA: May 16, 2005.

TA–W–59,414; Bemis Company, Inc., Paper Packaging Division, Peoria, IL: April 25, 2005.

TA–W–59,461; American Knitting Corp., Allentown, PA: May 22, 2005.

TA–W–59,475; TRW Automotive Steering Plant, Sterling Heights, MI: April 22, 2006.

TA–W–59,492; Brand Science LLC, dba LeSportsac, Dandridge, TN: May 25, 2005.

TA–W–59,354; Atlas Engineering, A Division of Penn Engineering, Kent, OH: May 2, 2005.

TA–W–59,471; Tigra USA, West Jefferson, NC: May 23, 2005.

The following certifications have been issued. The requirements of Section 222(b) (supplier to a firm whose workers are certified eligible to apply for TAA) and section 246(a)(3)(A)(ii) of the Trade Act have been met.

TA–W–59,342; Sheridan Industries, Inc., Albion, MI: May 4, 2005.

TA–W–59,393; SMM USA, Inc., Oceanside, CA: May 12, 2005.

The following certifications have been issued. The requirements of Section 222(b) (downstream producer for a firm whose workers are certified eligible to apply for TAA based on increased imports from or a shift in production to Mexico or Canada) and Section 246(a)(3)(A)(ii) of the Trade Act have been met.

TA–W–59,482; Country House Plastics and Finishing LLC, Gilmanton, NH: May 26, 2005.

Negative Determinations for Alternative Trade Adjustment Assistance

In the following cases, it has been determined that the requirements of 246(a)(3)(A)(ii) have not been met for the reasons specified.

The Department as determined that criterion (1) of Section 246 has not been met. Workers at the firm are 50 years of age or older.

TA–W–59,449; Technical Associates, Leased Wkrs at the R.J. Reynolds Tobacco Co., Macon, GA: June 24, 2006.

TA–W–59,490; Pace Industries, Georgia Warehouse, Midland, GA: May 30, 2005.

The Department as determined that criterion (2) of Section 246 has not been met. Workers at the firm possess skills that are easily transferable.

TA–W–59,469; Simclar, Inc., On-Site Leased Workers of Teamsource, Round Rock, TX: May 24, 2005.

TA–W–59,249; New Breed Corp., Workers at Panasonic Home Appliances Co., Danville, KY: April 17, 2005.

TA–W–59,396; GE Advanced Materials—Quartz, Quartz Willoughby Quartz Plant, Willoughby, OH: May 15, 2005.

TA–W–59,417; Laser Technologies and Services, Inc., A Division of Mitsubish Chemcial America, Exton, PA: May 17, 2005.

TA–W–59,499; Dana Corporation, Coupled Product, Fluid Routing Products Group, Mitchell, IN: May 26, 2005.

TA–W–58984; Independent Steel Casting Co., Inc., New Buffalo, MI: March 2, 2005.

The Department as determined that criterion (3) of Section 246 has not been met. Competition conditions within the workers' industry are not adverse.

None.

Negative Determinations for Worker Adjustment Assistance and Alternative Trade Adjustment Assistance

In the following cases, the investigation revealed that the eligibility criteria for worker adjustment assistance

have not been met for the reasons specified.

Since the workers of the firm are denied eligibility to apply for TAA, the workers cannot be certified eligible for ATAA.

The investigation revealed that criteria (a)(2)(A)(I.A.) and (a)(2)(B)(II.A.) (employment decline) have not been met.

TA–W–59,436; Jacquard, LLC, Burlington House Division, Cliffside, NC.

TA–W–59,532; Hardwick Knitted Fabrics, New York, NY.

The investigation revealed that criteria (a)(2)(A)(I.B.) (Sales or production, or both, did not decline) and (a)(2)(B)(II.B.) (shift in production to a foreign country) have not been met.

TA–W–59,498; Reilly Industries, Carbon, Chemicals and Coating Division, Granite City, IL.

The investigation revealed that criteria (a)(2)(A)(I.C.) (increased imports) and (a)(2)(B)(II.B.) (shift in production to a foreign country) have not been met.

TA–W–58,844; All Phase Circuits, Inc., Central Point, OR.

TA–W–59,250; Kodak Graphics Solutions and Services, Kearneysville, WV.

TA–W–59,365; Napco Window Systems, Sarver, PA.

TA–W–59,420; Modern Plastic Technology, Moldable Plastics Technology, Port Huron Twp., MI.

TA–W–59,430; Modine Manufacturing, Logansport, IN.

The investigation revealed that the predominate cause of worker separations is unrelated to criteria (a)(2)(A)(I.C.) (increased imports) and (a)(2)(B)(II.C) (shift in production to a foreign country).

TA–W–59,440; SelecTrucks of Massachusetts, Wholly Owned by Freightliner Market, Worcester, MA.

TA–W–59,463; Ash Grove Cement Co., Rivergate Lime Plant, Portland, OR.

The workers' firm does not produce an article as required for certification under Section 222 of the Trade Act of 1974.

TA–W–59,347; Health Fitness Corp., Atlanta, GA.

TA–W–59,464; MTD Southwest, Inc., A Subsidiary of MTD Products, Tucson, AZ.

TA–W–59,466; J-Star Bodco, Inc., A Subsidiary of Bodco, Inc., Fort Atkinson, WI.

TA–W–59,470; ABN AMRO Mortgage Group, Ann Arbor, MI.

TA–W–59,473; Briggs Plumbing Products, Flora, IN.

TA–W–59,486; LoanPro, LLC, Horsham, PA.

TA–W–59,495; PACE Airlines, Inc., Winston Salem, NC.

TA–W–59,496; Arrow Electronics, Inc., Foothill Ranch, CA.

TA–W–59,508; Arrow Electronics, Inc., Denver Financial Services Corporation, Englewood, CO.

TA–W–59,509; Spencer Products, Walnut Ridge, AR.

TA–W–59,526; Compex Legal Services, Asheville, NC.

TA–W–59,547; Newstech PA LP, Northampton, PA.

The investigation revealed that criteria of Section 222(b)(2) has not been met. The workers' firm (or subdivision) is not a supplier to or a downstream producer for a firm whose workers were certified eligible to apply for TAA.

None.

I hereby certify that the aforementioned determinations were issued during the month of June 2006. Copies of These determinations are available for inspection in Room C–5311, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, DC 20210 during normal business hours or will be mailed to persons who write to the above address.

Dated: June 28, 2006.

Erica R. Cantor,

Director, Division of Trade Adjustment Assistance.

[FR Doc. E6–11089 Filed 7–13–06; 8:45 am]

BILLING CODE 4510–30–P

DEPARTMENT OF LABOR

Employment and Training Administration

Notice of Determinations Regarding Eligibility To Apply for Worker Adjustment Assistance and Alternative Trade Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974, as amended (19 U.S.C. 2273) the Department of Labor herein presents summaries of determinations regarding eligibility to apply for trade adjustment assistance for workers (TA–W) number and alternative trade adjustment assistance (ATAA) by (TA–W) number issued during the period of June 2006.

In order for an affirmative determination to be made for workers of a primary firm and a certification issued regarding eligibility to apply for worker adjustment assistance, each of the group eligibility requirements of section 222(a) of the Act must be met.

I. Section (a)(2)(A) all of the following must be satisfied:

A. A significant number or proportion of the workers in such workers' firm, or an appropriate subdivision of the firm, have become totally or partially separated, or are threatened to become totally or partially separated;

B. The sales or production, or both, of such firm or subdivision have decreased absolutely; and

C. Increased imports of articles like or directly competitive with articles produced by such firm or subdivision have contributed importantly to such workers' separation or threat of separation and to the decline in sales or production of such firm or subdivision; or

II. Section (a)(2)(B) both of the following must be satisfied:

A. A significant number or proportion of the workers in such workers' firm, or an appropriate subdivision of the firm, have become totally or partially separated, or are threatened to become totally or partially separated;

B. There has been a shift in production by such workers' firm or subdivision to a foreign country of articles like or directly competitive with articles which are produced by such firm or subdivision; and

C. One of the following must be satisfied:

1. The country to which the workers' firm has shifted production of the articles is a party to a free trade agreement with the United States;

2. The country to which the workers' firm has shifted production of the articles to a beneficiary country under the Andean Trade Preference Act, African Growth and Opportunity Act, or the Caribbean Basin Economic Recovery Act; or

3. There has been or is likely to be an increase in imports of articles that are like or directly competitive with articles which are or were produced by such firm or subdivision.

Also, in order for an affirmative determination to be made for secondarily affected workers of a firm and a certification issued regarding eligibility to apply for worker adjustment assistance, each of the group eligibility requirements of section 222(b) of the Act must be met.

(1) Significant number or proportion of the workers in the workers' firm or an appropriate subdivision of the firm have become totally or partially separated, or are threatened to become totally or partially separated;

(2) The workers' firm (or subdivision) is a supplier or downstream producer to a firm (or subdivision) that employed a group of workers who received a certification of eligibility to apply for trade adjustment assistance benefits and

such supply or production is related to the article that was the basis for such certification; and

(3) Either—

(A) The workers' firm is a supplier and the component parts it supplied for the firm (or subdivision) described in paragraph (2) accounted for at least 20 percent of the production or sales of the workers' firm; or

(B) A loss or business by the workers' firm with the firm (or subdivision) described in paragraph (2) contributed importantly to the workers' separation or threat of separation.

In order for the Division of Trade Adjustment Assistance to issued a certification of eligibility to apply for Alternative Trade Adjustment Assistance (ATAA) for older workers, the group eligibility requirements of section 246(a)(3)(A)(ii) of the Trade Act must be met.

1. Whether a significant number of workers in the workers' firm are 50 years of age or older.

2. Whether the workers in the workers' firm possess skills that are not easily transferable.

3. The competitive conditions within the workers' industry (*i.e.*, conditions within the industry are adverse).

Affirmative Determinations for Worker Adjustment Assistance

The following certifications have been issued. The date following the company name and location of each determination references the impact date for all workers of such determination.

The following certifications have been issued. The requirements of section 222(a)(2)(A) (increased imports) of the Trade Act have been met.

None

The following certifications have been issued. The requirements of section 222(a)(2)(B) (shift in production) of the Trade Act have been met.

TA–W–59,283; Staktek Group L.P., Austin, TX: April 25, 2005.

TA–W–59,361; Columbian Chemicals Co., Proctor, WV: May 8, 2005.

TA–W–59,364; Galileo International, LLC, Travel Distribution Services Division, Centennial, CO: May 4, 2005.

TA–W–59,411; Quadriga Art, Inc., Pennsauken, NJ: May 16, 2005.

The following certifications have been issued. The requirements of section 222(b) (supplier to a firm whose workers are certified eligible to apply for TAA) of the Trade Act have been met.

None

The following certifications have been issued. The requirements of section 222(b) (downstream producer for a firm whose workers are certified eligible to apply for TAA based on increased imports from or a shift in production to Mexico or Canada) of the Trade Act have been met.

None

Affirmative Determinations for Worker Adjustment Assistance and Alternative Trade Adjustment Assistance

The following certifications have been issued. The date following the company name and location of each determination references the impact date for all workers of such determination.

The following certifications have been issued. The requirements of section 222(a)(2)(A) (increased imports) and section 246(a)(3)(A)(ii) of the Trade Act have been met.

TA–W–59,397; Tyden Seal Company (The), A Subsidiary of Tyden Group, Inc., Hastings, MI: May 15, 2005.

TA–W–59,401; Worth Sports, A Subsidiary of Rawlings Sporting Goods Co., Tullahoma, TN: April 3, 2006.

TA–W–59,401A; Worth Sports, A Subsidiary of Rawlings Sporting Goods Co., Tullahoma, TN: April 3, 2006.

TA–W–59,433; BBA Nonwovens Simpsonville, Inc., A Subsidiary of BBA Group PLC, Simpsonville, SC: May 17, 2005.

TA–W–59,441; C.N.C. Department of Four Seasons, Division of Standard Motor Products, Grapevine, TX: May 22, 2005.

TA–W–59,462; Hugo Bosca Company, Inc., Springfield, OH: May 23, 2005.

TA–W–59,247; Saint Gobain Advanced Ceramics, Microelectronics Division, Sanborn, NY: April 16, 2005.

TA–W–59,332; Plastic Technology Group, Inc., On-Site Leased Wkrs of Select Personnel Services, Santa Ana, CA: May 4, 2005.

TA–W–59,349; P.H. Glatfelter Co., dba Glatfelter, Neenah, WI: January 10, 2006.

TA–W–59,398; Progress Casting Group, Inc., Albert Lea, MN: May 15, 2005.

TA–W–59,297; Tooling Supply NAFTA, Fair Lawn, NJ: April 25, 2005.

TA–W–59,082; Trinity Pottery, Inc., Rice Lake, WI: March 21, 2005.

The following certifications have been issued. The requirements of section 222(a)(2)(B) (shift in production) and section 246(a)(3)(A)(ii) of the Trade Act have been met.

TA–W–59,258; Johnson Controls, Inc., Interiors Experience Facility, Holland, MI: April 20, 2005.

TA–W–59,261; Gould Packaging, Inc., A Division of LePage's 2000, Inc., Dekalb, IL: April 20, 2005.

TA–W–59,271; World Plastic Extruders, Inc., Moonachie, NJ: April 24, 2005.

TA–W–59,295; Sony Technology Center-Pittsburgh, LCD Rear Projection Assembly, Mt. Pleasant, PA: April 27, 2005.

TA–W–59,343; NABCO, Inc, A Division of Remy International, Inc., Kaleva, MI: May 5, 2005.

TA–W–59,343A; NABCO, Inc, A Division of Remy International, Inc., Reed City, MI: May 5, 2005.

TA–W–59,412; Archway and Mother's Cake & Cookie Co., East Division, Oakland, CA: May 16, 2005.

TA–W–59,414; Bemis Company, Inc., Paper Packaging Division, Peoria, IL: April 25, 2005.

TA–W–59,461; American Knitting Corp., Allentown, PA: May 22, 2005.

TA–W–59,475; TRW Automotive Steering Plant, Sterling Heights, MI: April 22, 2006

TA–W–59,492; Brand Science LLC, dba LeSportsac, Dandridge, TN: May 25, 2005.

TA–W–59,354; Atlas Engineering, A Division of Penn Engineering, Kent, OH: May 2, 2005.

TA–W–59,471; Tigra USA, West Jefferson, NC: May 23, 2005.

The following certifications have been issued. The requirements of section 222(b) (supplier to a firm whose workers are certified eligible to apply for TAA) and section 246(a)(3)(A)(ii) of the Trade Act have been met.

TA–W–59,342; Sheridan Industries, Inc., Albion, MI: May 4, 2005.

TA–W–59,393; SMM USA, Inc., Oceanside, CA: May 12, 2005.

The following certifications have been issued. The requirements of section 222(b) (downstream producer for a firm whose workers are certified eligible to apply for TAA based on increased imports from or a shift in production to Mexico or Canada) and section 246(a)(3)(A)(ii) of the Trade Act have been met.

TA–W–59,482; Country House Plastics and Finishing LLC, Gilmanton, NH: May 26, 2005.

Negative Determinations for Alternative Trade Adjustment Assistance

In the following cases, it has been determined that the requirements of 246(a)(3)(A)(ii) have not been met for the reasons specified.

The Department as determined that criterion (1) of section 246 has not been met. Workers at the firm are 50 years of age or older.

None.

The Department as determined that criterion (2) of section 246 has not been met. Workers at the firm possess skills that are easily transferable.

TA–W–59,283; Staktek Group L.P., Austin, TX: April 25, 2005.

TA–W–59,361; Columbian Chemicals Co., Proctor, WV: May 8, 2005.

TA–W–59,364; Galileo International, LLC, Travel Distribution Services Division, Centennial, CO: May 4, 2005.

TA–W–59,411; Quadriga Art, Inc., Pennsauken, NJ: May 16, 2005.

The Department as determined that criterion (3) of section 246 has not been met. Competition conditions within the workers' industry are not adverse.

None.

Negative Determinations for Worker Adjustment Assistance and Alternative Trade Adjustment Assistance

In the following cases, the investigation revealed that the eligibility criteria for worker adjustment assistance have not been met for the reasons specified.

Since the workers of the firm are denied eligibility to apply for TAA, the workers cannot be certified eligible for ATAA.

The investigation revealed that criteria (a)(2)(A)(I.A.) and (a)(2)(B)(II.A.) (employment decline) have not been met.

TA–W–59,382; C.M. Holtzinger Fruit Co. Inc., Prosser, WA.

TA–W–59,443; Summit Knitting Mills, Inc., Asheboro, NC.

The investigation revealed that criteria (a)(2)(A)(I.B.) (Sales or production, or both, did not decline) and (a)(2)(B)(II.B.) (shift in production to a foreign country) have not been met.

TA–W–59,419; Panel Processing, Inc., Alpena, MI.

TA–W–59,502; Culpepper Plastics Corp., Clinton, AR.

The investigation revealed that criteria (a)(2)(A)(I.C.) (increased imports) and (a)(2)(B)(II.B.) (shift in production to a foreign country) have not been met.

TA–W–59,151; Rowe Pottery Works, Inc., Cambridge, WI.

TA–W–59,167; Tredegar Film Products, LaGrange, GA.

TA–W–59,183; Gehl Company, West Bend, WI.

TA–W–59,211; Franklin Farms, Inc., North Franklin, CT.

TA–W–59,292; GE Consumer and Industrial Lighting Plant, Willoughby, OH.

TA–W–59,309; Rich's Rolling Pin, Inc., Pine Bluff, AR.

TA–W–59,351; Southern Oregon Lumber, Central Point, OR.

TA–W–59,360; Smurfit Stone Container Corp., Container Division, Mansfield, MA.

TA–W–59,366; Yorktowne Cabinetry, Cabinetry Division, Mifflinburg, PA.

TA–W–59,465; Saint Gobain Crystals, Solon, OH.

The investigation revealed that the predominate cause of worker separations is unrelated to criteria (a)(2)(A)(I.C.) (increased imports) and (a)(2)(B)(II.C) (shift in production to a foreign country).

TA–W–59,424; Annalee Mobilitee Dolls, Inc., Meredith, NH.

The workers' firm does not produce an article as required for certification under section 222 of the Trade Act of 1974.

TA–W–59,327; Stravina Operating Co., LLC, Chatsworth, CA.

TA–W–59,340; Billings Transportation Group, Inc., Lexington, NC.

TA–W–59,340A; Billings Freight Systems, Inc., Lexington, NC.

TA–W–59,340B; Billings Express, Inc., Atlanta, GA.

TA–W–59,374; Astec America, Inc., Product Support Group, Carlsbad, CA.

TA–W–59,400; Factory Fabrics, Cumberland, RI.

TA–W–59,487; LG Phillips Display USA, Ann Harbor, MI.

The investigation revealed that criteria of Section 222(b)(2) has not been met. The workers' firm (or subdivision) is not a supplier to or a downstream producer for a firm whose workers were certified eligible to apply for TAA.

TA–W–59,331; Orpack Stone Corp., Division of Smurfit Stone, Herrin, IL.

TA–W–59,378; Crossroads Industries, Inc., Gaylord, MI.

I hereby certify that the aforementioned determinations were issued during the month of June 2006. Copies of These determinations are available for inspection in Room C–5311, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, DC 20210 during normal business hours or will be mailed to persons who write to the above address.

Dated: June 27, 2006.

Erica R. Cantor,

Director, Division of Trade Adjustment Assistance.

[FR Doc. E6–11088 Filed 7–13–06; 8:45 am]

BILLING CODE 4510–30–P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–59,226]

Werner Company, Anniston, Alabama; Dismissal of Application for Reconsideration

Pursuant to 29 CFR 90.18(C) an application for administrative reconsideration was filed with the Director of the Division of Trade Adjustment Assistance for workers at Werner Company, Anniston, Alabama. The application did not contain new information supporting a conclusion that the determination was erroneous, and also did not provide a justification for reconsideration of the determination that was based on either mistaken facts or a misinterpretation of facts or of the law. Therefore, dismissal of the application was issued.

TA–W–59,226; Werner Company Anniston, AL (June 22, 2006)

Signed at Washington, DC, this 23rd day of June 2006.

Erica R. Cantor,

Director, Division of Trade Adjustment Assistance.

[FR Doc. E6–11083 Filed 7–13–06; 8:45 am]

BILLING CODE 4510–30–P

DEPARTMENT OF LABOR

Bureau of Labor Statistics

Proposed Collection, Comment Request

ACTION: Notice.

SUMMARY: The Department of Labor, as part of its continuing effort to reduce paperwork and respondent burden, conducts a pre-clearance consultation program to provide the general public and Federal agencies with an opportunity to comment on proposed and/or continuing collections of information in accordance with the Paperwork Reduction Act of 1995 (PRA95) [44 U.S.C. 3506(c) (2)(A)]. This program helps to ensure that requested data can be provided in the desired format, reporting burden (time and financial resources) is minimized, collection instruments are clearly understood, and the impact of collection requirements on respondents can be properly assessed. The Bureau of Labor Statistics (BLS) is soliciting comments concerning the proposed revision of the "Telephone Point of Purchase Survey." A copy of the proposed information collection request (ICR) can be obtained

by contacting the individual listed below in the **ADDRESSES** section of this notice.

DATES: Written comments must be submitted to the office listed in the **ADDRESSES** section of this notice on or before September 12, 2006.

ADDRESSES: Send comments to Amy A. Hobby, BLS Clearance Officer, Division of Management Systems, Bureau of Labor Statistics, Room 4080, 2 Massachusetts Avenue, NE., Washington, DC 20212, 202–691–7628. (This is not a toll free number.)

FOR FURTHER INFORMATION CONTACT: Amy A. Hobby, BLS Clearance Officer, telephone number 202–691–7628. (See **ADDRESSES** section.)

SUPPLEMENTARY INFORMATION:

I. Background

The purpose of this survey is to develop and maintain a timely list of retail, wholesale, and service establishments where urban consumers shop for specified items. This information is used as the sampling universe for selecting establishments at which prices of specific items are collected and monitored for use in calculating the Consumer Price Index (CPI). The survey has been ongoing since 1980 and also provides expenditure data that allows items that are priced in the CPI to be properly weighted.

II. Current Action

Office of Management and Budget clearance is being sought for the Telephone Point of Purchase Survey (TPOPS).

Since 1997, the survey has been administered quarterly via a computer-assisted-telephone-interview. This survey is flexible and creates the possibility of introducing new products into the CPI in a timely manner. The data collected in this survey are necessary for the continuing construction of a current outlet universe from which locations are selected for the price collection needed for calculating the CPI. Furthermore, the TPOPS provides the weights used in selecting the items that are priced at these establishments. This sample design produces an overall CPI market basket that is more reflective of the prices faced and the establishments visited by urban consumers.

For this clearance, the BLS and the Census Bureau have reduced the sample from 86 primary sampling units (PSUs) to 75. While the new sample continues to be introduced, there will be overlap of old and new samples in some areas in which the TPOPS data are collected. In addition, each new PSU will have an increased sample to be able to field a full outlet sample to collect prices for the CPI.

III. Desired Focus of Comments

The Bureau of Labor Statistics is particularly interested in comments that:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility.
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used.
- Enhance the quality, utility, and clarity of the information to be collected.
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submissions of responses.

Type of Review: Revision of a currently approved collection.

Agency: Bureau of Labor Statistics.

Title: Telephone Point of Purchase Survey.

OMB Number: 1220–0044.

Affected Public: Individuals or households.

Total Respondents: 19,374.

Frequency: Quarterly.

Total Responses: 51,340.

Average Time Per Response: 12 minutes.

Estimated Total Burden Hours: 10,268 hours.

Total Burden Cost (capital/startup): $0.

Total Burden Cost (operating/maintenance): $0.

Comments submitted in response to this notice will be summarized and/or included in the request for Office of Management and Budget approval of the information collection request; they also will become a matter of public record.

Signed at Washington, DC, this 6th day of July, 2006.

Mark Staniorski,

Acting Chief, Division of Management Systems, Bureau of Labor Statistics.

[FR Doc. E6–11085 Filed 7–13–06; 8:45 am]

BILLING CODE 4510–24–P

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

National Endowment for the Arts; Arts Advisory Panel—Notice of Change

Pursuant to Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), as amended, notice is hereby given that the open session for the Music Panel, a discussion and performance with William Bolcom and Joan Morris, has had to be changed due to schedule conflicts. The session, originally scheduled for 12 p.m. to 12:50 p.m. on July 20th, will instead be held from 12 p.m. to 1 p.m. on July 19th.

Further information with reference to these meetings can be obtained from Ms. Kathy Plowitz-Worden, Office of Guidelines & Panel Operations, National Endowment for the Arts, Washington, DC, 20506, or call 202/682–5691.

July 11, 2006.

Kathy Plowitz-Worden,

Panel Coordinator, Panel Operations, National Endowment for the Arts.

[FR Doc. E6–11142 Filed 7–13–06; 8:45 am]

BILLING CODE 7537–01–P

NATIONAL SCIENCE FOUNDATION

Sunshine Act Meeting; National Science Board; Commission on 21st Century Education in Science, Technology, Engineering, and Mathematics; Notification of a Public Federal Advisory Committee Meeting of the Commission on 21st Century Education in Science, Technology, Engineering, and Mathematics; Sunshine Act

ACTION: Notice.

SUMMARY: The National Science Board is announcing a public Federal Advisory Committee meeting of the Commission on 21st Century Education in Science, Technology, Engineering, and Mathematics (the Commission).

DATES: The meeting will take place on August 3 and 4, 2006. The meeting will be held from 1:30 p.m. to no later than 5:30 p.m. on August 3 and from 8:30 a.m. to no later than 12:30 p.m. on August 4. The public is welcome to attend.

ADDRESSES: The meeting will be held at the National Science Foundation, National Science Board Boardroom (Suite 1235), 4201 Wilson Boulevard, Arlington, VA 22230.

Public Meeting Attendance: All visitors must report to the NSF reception desk with a photo ID at the 9th and N. Stuart Streets entrance to receive a visitor's badge.

FOR FURTHER INFORMATION CONTACT: Dr. Elizabeth Strickland, Commission Executive Secretary, National Science Board Office, 4201 Wilson Boulevard, Arlington, VA 22230; Phone: 703–292–4527; E-mail: *estrickl@nsf.gov*.

SUPPLEMENTARY INFORMATION: This notice is published in accordance with the provisions of the Federal Advisory Committee Act (FACA) (Pub. L. 92–463). The purpose of this Commission meeting is to develop a work plan for the Commission's activities and to receive briefings relating to science, technology, engineering, and mathematics education. Further information about the Commission may be found at *http://www.nsf.gov/nsb*.

Russell Moy,

Attorney Advisor.

[FR Doc. 06–6264 Filed 7–12–06; 3:19 pm]

BILLING CODE 7555–01–P

NUCLEAR REGULATORY COMMISSION

[Docket Nos. 50–334 And 50–412]

FirstEnergy Nuclear Operating Company; FirstEnergy Nuclear Generation Corp.; Ohio Edison Company; The Toledo Edison Company; Beaver Valley Power Station, Unit Nos. 1 and 2; Final Environmental Assessment and Finding of No Significant Impact Related to the Proposed License Amendment to Increase the Maximum Reactor Power Level

AGENCY: U.S. Nuclear Regulatory Commission (NRC).

SUMMARY: The NRC has prepared a Final Environmental Assessment as part of its evaluation of a request by FirstEnergy Nuclear Operating Company (FENOC), et al., for a license amendment to increase the maximum rated thermal power at Beaver Valley Power Station, Unit Nos. 1 and 2 (BVPS–1 and 2) from 2689 megawatts-thermal (MWt) to 2900 MWt. This represents a power increase of approximately 8 percent for BVPS–1 and 2. As stated in the NRC staff's position paper dated February 8, 1996, on the Boiling-Water Reactor Extended Power Uprate (EPU) Program, the NRC staff will prepare an environmental impact statement if it believes a power uprate will have a significant impact on the human environment. The NRC staff did not identify any significant impact from the information provided in the licensee's EPU application for BVPS–1 and 2 or from the NRC staff's independent review; therefore, the NRC staff is documenting its environmental review in an environmental assessment (EA). Also, in accordance with the position paper, this Final Environmental Assessment and Finding of No Significant Impact is being published in the **Federal Register**.

The NRC published a Draft Environmental Assessment and Finding of No Significant Impact on the proposed action for public comment in the **Federal Register** on May 9, 2006 (71 FR 26985). No comments were received.

Environmental Assessment

Plant Site and Environs

The EPU would apply to the facilities at the BVPS–1 and 2 site, located on the south bank of the Ohio River in Shippingport Borough, Beaver County, Pennsylvania. The station site consists of 449 acres and it lies approximately 25 miles northwest of Pittsburgh, Pennsylvania, one mile southeast of Midland, Pennsylvania, 5 miles east of Liverpool, Ohio, 8 miles east of Newell, West Virginia, and 6 miles southwest of Beaver, Pennsylvania.

BVPS–1 and 2 are located within the Pittsburgh Low Plateau Section of the Appalachian Plateau Physiographic Province, which is characterized by a smooth, upland surface cut by numerous narrow, relatively shallow river valleys. The site region encompasses portions of Pennsylvania, Ohio, and West Virginia, and the site elevation ranges from 660 to 1,700 feet above sea level.

The major river systems in the region consist of the Monongahela, Allegheny, and Ohio Rivers, and their tributaries. The Ohio River is formed by the juncture of the Monongahela and Allegheny Rivers at Pittsburgh, and extends 981 river miles to Cairo, Illinois, where it joins the Mississippi River. The Ohio River and lower portions of the Allegheny and Monongahela Rivers are maintained and controlled by a series of locks and dams operated by the U.S. Army Corps of Engineers.

BVPS–1 and 2 consist of two light-water cooled, pressurized-water reactors (PWRs) with a current authorized maximum reactor core power level output of 2689 MWt for each unit. The two units employ a closed-loop cooling system that includes a natural draft cooling tower (CT) (one per unit) to dissipate waste heat to the atmosphere. The BVPS–1 and BVPS–2 circulating water systems (CWSs) are non-safety related and provide cooling water for the main condensers of the turbine-generator units. The closed-loop systems consist of CT pumps, pumphouses, CWS piping, main condenser vacuum priming systems, mechanical tube cleaning system (BVPS–2 only), natural draft, hyperbolic CTs for removal of waste heat from the main condensers, and associated hydraulic and electrical equipment.

Identification of the Proposed Action

By letter dated October 4, 2004, FENOC proposed an amendment to the operating licenses for BVPS–1 and 2 to increase the maximum rated thermal power level by approximately 8 percent, from 2689 MWt to 2900 MWt. The change is considered an EPU because it would raise the reactor core power level more than 7 percent above the original licensed maximum power level. This proposed action would allow the heat output of the reactor to increase, which would increase the flow of steam to the turbine. This would allow the turbine-generator to increase the production of power and would increase the amount of waste heat delivered to the condenser, resulting in an increase in the circulating water condenser discharge temperature, evaporation flow rates, and blowdown concentrations. Moreover, the temperature of water discharged from the service water systems (SWSs) to the Ohio River would increase slightly due to the increased heat load, but flow rates would remain unchanged.

In April 2001, the NRC approved a FENOC request to increase the licensing basis core power level of BVPS–1 and 2 by 1.4 percent; no other power uprates have been requested or granted for this site.

The Need for the Proposed Action

The purpose and need for the proposed action (EPU) is to increase the maximum thermal power level of BVPS–1 and 2, thereby increasing the electric power generation. The increase in electric power generation would give FENOC the capability to provide lower cost power to its customers than can be obtained otherwise in the current and anticipated energy market.

Environmental Impacts of the Proposed Action

At the time of issuance of the operating license for BVPS–1 and 2, the NRC staff noted that any activity authorized by the license would be encompassed by the overall action evaluated in the Final Environmental Statements (FESs) for the operation of BVPS–1 and 2, which were issued in July 1973 for BVPS–1 and September 1985 for BVPS–2. This EA summarizes the radiological and non-radiological impacts in the environment that may result from the proposed action.

Non-Radiological Impacts

Land Use Impacts

The potential impacts associated with land use for the proposed action include impacts from construction and plant modifications. FENOC or its subsidiary companies own all land within the BVPS–1 and 2 exclusion area except the Ohio River proper; onsite property owned by Duquesne Light (i.e., the switchyard tract, which is jointly owned by Duquesne Light and FENOC); the eastern portion of Phillis Island, owned by the U.S. Government and administered by the U.S. Fish and Wildlife Service (FWS); and 7.4 acres of the Freeport Development Company (now Laurel Ventures) tract, located along the southern BVPS–1 and 2 site boundary. However, appropriate controls are in place to restrict use of these lands. In case of an emergency that threatens persons or the environment, FENOC has the authority to enter the switchyard (after notifying Duquesne Light) to take action to prevent damage, injury, or loss. Limited hunting is permitted on Phillis Island, but no public assembly is allowed there. Similarly, the Freeport Development Company property restricts use of this land by current and future purchasers or leasers.

The Beaver County Planning Commission estimates that forest land accounts for 49.5 percent (140,840 acres) of all land in Beaver County, while agricultural lands account for 26.2 percent (73,892 acres). Forested lands are prevalent in western Beaver County. Residential lands account for 15.5 percent (44,050 acres), while industrial, commercial, and other non-residential urban land uses account for only 4.1 percent of the County's land area. Included in these industrial lands are brownfield sites of former steel manufacturing operations, including sites along the Ohio River.

Several public lands in the vicinity of the BVPS–1 and 2 site are dedicated to wildlife management and recreation. These public lands include a portion of the Ohio River Islands National Wildlife Refuge, Raccoon Creek State Park, Beaver Creek, State Forest, Brady Run County Park, and several areas of the Pennsylvania Game Lands. Shippingport Community Park, a 7.5-acre public recreation facility, is located along State Route 3016 in Shippingport. The Shippingport Boat Ramp is located approximately 800 feet upstream from the BVPS–1 and 2 site eastern boundary on the Ohio River.

Phillis Island and Georgetown Island are located in the BVPS–1 and 2 site vicinity and have been designated as part of a National Wildlife Refuge. Phillis Island (approximately 39 acres) is situated approximately 400 feet offshore of the downstream portion of the BVPS–1 and 2 site and lies partially within the BVPS–1 and 2 exclusion area. The 16.2-acre Georgetown Island is located approximately three river miles downstream from the BVPS–1 and 2 site.

The Municipality of Shippingport Borough has zoned the BVPS–1 and 2 site as industrial except for the tract on which the Training and Simulator Buildings are located, which is zoned business. Some land adjacent to the site, south of State Route 168, is zoned residential. However, this area is small, consists of steep, wooded slopes, and has limited potential for growth. The U.S. Coast Guard has established a Restricted Use Zone encompassing all waters extending 200 feet from FENOC's BVPS–1 and 2 property line along the southeastern shoreline of the Ohio River. Entry of persons or vessels into this Restricted Use Zone is prohibited unless authorized by the Coast Guard Captain of the Port of Pittsburgh or his designated representative.

The proposed EPU would not require any land disturbance to the BVPS–1 and 2 site. The EPU would not significantly affect material storage, including chemicals and fuels stored on site. The most significant modifications that would take place to support the EPU include replacement of the high-pressure turbine rotor, changes to the transformer cooler, replacement of the BVPS–1 steam generators (SGs), and replacement of the CT fill. None of these modifications would result in changes in land use.

FENOC does not plan to conduct major refurbishment or significant land-disturbing activities to implement the EPU. FENOC has stated that there would be no refurbishment-related impacts on historic and archaeological resources associated with the EPU. The proposed EPU would not modify the current land use activities at the site beyond that described in the July 1973 or the September 1985 FESs related to the operation of BVPS–1 and 2. Therefore, the staff concludes that the land use impacts of the proposed EPU are bounded by the impacts previously evaluated in the FESs.

Cooling Tower Impacts

The potential impacts associated with increased CT operation for the proposed action include aesthetic impacts due to the increased moisture content of the air. Other impacts include fogging, icing, thermal, suspended solids, and noise. BVPS–1 and 2 employ a closed-loop cooling system including a natural draft CT (one per unit) to dissipate waste heat to the atmosphere. The two CTs are natural draft, hyperbolic, reinforced concrete shells, approximately 500 feet high.

There would be roughly a 10-percent increase in the evaporation rates from the CTs as a result of the EPU. The wide dispersion and elevated CT exhaust plumes of the natural draft CTs at BVPS–1 and 2 would continue to provide an advantage in mitigating any fogging and icing potentials. The fogging potential of the CT plumes would be slightly diminished compared to the existing plume trajectories. The EPU higher heat load would increase the CT exit velocity and temperature. The plumes would be more buoyant and have a slightly higher upward velocity. This reduces the potential for fogging. The icing potential of the plumes during the EPU operation may increase slightly, with a maximum of 8 percent more icing than indicated by the original plume studies in the Updated Final Safety Analysis Reports (UFSARs). This results in an additional thickness of 0.002 inches compared to the original estimates. However, the original icing estimates were based on very high drift rates and depositions that, according to FENOC, have not occurred in the past 28 years. Therefore, no significant fogging or icing would occur as a result of the EPU.

The increased plant load due to the EPU would increase the CT blowdown discharge temperature to the Ohio River by approximately 3 degrees Fahrenheit (F). The CT evaporation rate would increase by up to an additional 10 percent, which would reduce CT blowdown flow. Concentrate solutions and suspensions in the discharged water are expected to increase, and yield up to 10 percent more solids deposition in the Cts. The National Pollutant Discharge Elimination System (NPDES) permit specifies that the discharge may not change the temperature of the receiving stream by more than 2 F in any one hour. The data evaluated indicate that the post-EPU discharges would not challenge this NPDES permit parameter. Based on Environmental Protection Agency (EPA) standards, the water temperature at representative locations in the Ohio River shall not exceed the monthly maximum limits by more than 3 °F. The month of January has the most limiting EPA maximum temperature of 50 °F. In addition, the data evaluated indicate that the evaporation related to operation at EPU conditions would not cause the mass or concentration parameters of the CT blowdown to exceed the BVPS–1 and 2

NPDES permit parameter limits. Furthermore, the additional 10-percent increase in suspended solids would not cause significant impacts to the Ohio River, and sedimentation from the CTs would be removed during refueling outages.

The aesthetic impacts associated with increased CT operation would not change significantly from the aesthetic impacts associated with the current CT operation. No significant increase in noise is anticipated for CT operation because there would be no change in flowrate and no new CT construction. The fogging potential of the CT plumes of the natural draft CTs at BVPS–1 and 2 is slightly diminished compared to the existing plume trajectories due to higher heat load, which would increase the CT exit velocity and temperature, making the elevation of the plumes even further from the ground. Therefore, the NRC staff concludes that there are no significant impacts associated with increased CT operation for the proposed action.

Transmission Facility Impacts

The potential impacts associated with transmission facilities for the proposed action include changes in transmission line corridor right-of-way maintenance and electric shock hazards due to increased current. The proposed EPU would not require any physical modifications to the transmission lines. FENOC implements a specific program for ensuring continued safe and reliable operation of these transmission lines, continued compatibility of land uses on the transmission corridors, and environmentally sound maintenance of the corridors.

FENOC conducts transmission line corridor right-of-way maintenance through helicopter inspections of transmission lines to determine the physical condition of towers, conductors and other equipment; status of vegetation communities; land use changes; and any encroachments on the line. On-foot inspections are conducted to manage vegetation growth, and crews are sent to problem areas to make onsite inspections and repairs, as needed. Routine vegetation maintenance of the rural transmission line corridors is managed to promote a diversity of shrubs, grasses, and other groundcover that provides wildlife food and cover. Maintenance efforts prescribed for transmission corridors include the removal, pruning, and chemical control of woody vegetation as necessary to ensure adequate clearance for safe and reliable operation of the line. Management of the corridor edge and beyond involves identification and removal of hazardous trees. These maintenance procedures are not expected to change as a result of the proposed action.

There would be an increase in current passing through the transmission lines associated with the increased power level of the proposed EPU. The increased electrical current passing through the transmission lines would cause an increase in electromagnetic field strength. The National Electric Safety Code (NESC) provides design criteria that limit hazards from steady-state currents induced by transmission line electromagnetic fields. The NESC limits the short-circuit current to ground to less than 5 miliamperes (mA). FENOC conducted an independent analysis of each of the transmission lines to determine conformance with the current NESC standard. As a result of the EPU, FENOC does not expect changes in operating voltage or other parameters for these lines that would affect conformance status with respect to the NESC 5-mA standard. Currently, all circuits at BVPS–1 and 2 meet NESC requirements for limiting induced shock.

The impacts associated with transmission facilities for the proposed action would not change significantly from the impacts associated with current plant operation. No new transmission lines are expected to be constructed as a result of the EPU. There would be no physical modifications to the transmission lines, transmission line rights-of-way maintenance practices would not change, there would be no changes to transmission line rights-of-way or vertical clearances, and electric current passing through the transmission lines would increase only slightly. Therefore, the NRC staff concludes that there are no significant impacts associated with transmission facilities for the proposed action.

Water Use Impacts

Water used for BVPS–1 and 2 site operations consists of raw water from the Ohio River and potable water from the Midland Borough Municipal Water Authority (MWA). Water withdrawn from the Ohio River is used primarily for cooling, initially as once-through non-contact cooling water for primary and secondary heat exchangers in BVPS–1 and 2. Most of this water is then used as makeup to the CWSs, which provide cooling for the main condensers, to replace water lost from evaporation and drift from the CTs, and to maintain dissolved solids at design equilibrium. A small fraction of water withdrawn from the river is used as feedwater for production of demineralized water (for use in nuclear steam supply system primary and secondary cooling loops) and other purposes. Cooling water not consumed by evaporation and drift losses and other treated wastewater streams is ultimately discharged back to the Ohio River in accordance with the NPDES permit for the BVPS–1 and 2 site issued by the Pennsylvania Department of Environmental Protection.

Municipal water from MWA supplies the station domestic water distribution system. Sanitary wastewater is treated in the BVPS–1 and 2 sewage treatment plants. Though the BVPS–1 and 2 site originally drew water from onsite wells and the Ohio River as supply sources for domestic water, no groundwater is currently used at BVPS–1 and 2, and no future use of groundwater is anticipated.

Potential water use impacts from the proposed action include hydrological alterations to the Ohio River and changes to plant water supply. Water from the BVPS–1 SWS is discharged to the BVPS–1 CWS, and water from the BVPS–2 SWS (excluding up to 8,400 gallons per minute (gpm) discharged to the emergency outfall structure) is discharged to the BVPS–2 CWS. This makeup water replaces consumptive losses due to evaporation and drift from the CTs. The excess makeup overflows at the CT basin and is directed back to the river as CT blowdown. CT blowdown flow also keeps dissolved solids in the CWSs within design limits.

Makeup flows to the CWSs would be essentially unchanged from pre-EPU conditions. Since the consumptive loss would increase (due to increased evaporation), less water would overflow the basin as CT blowdown when operating at the EPU conditions, leading to an increase in the maximum dissolved solids concentration of the blowdown by approximately 7 percent, with an increase in blowdown temperature of less than 3 °F at design conditions noted above, and a decrease in blowdown flow amounts approximately equivalent to the increase in evaporation rates. With respect to these changes, FENOC determined that the combined maximum monthly average blowdown flows for the BVPS–1 and 2 units operating at the EPU maximum power levels of 2,900 MWt would be less than 42,500 gpm. BVPS–1 and 2 operational monitoring data indicate that this is likely a conservative upper-bound estimate; for a recent 2-year period prior to power uprate (2001–2002), actual maximum monthly average blowdown discharge flow from BVPS–1 and 2 was approximately 38,000 gpm.

Predicted monthly average temperature differences between the blowdown and the ambient river water at current authorized maximum power levels range from 2.4 °F in August to 28.6 °F in January. During June through August, when ambient river temperatures under this prediction are highest (75–80 °F), this temperature differential ranges as high as 7.2 °F. BVPS–1 and 2 operational monitoring indicates that this range is appropriate for periods of high ambient water temperature. For example, average temperature differential between BVPS–1 and 2 blowdown and the ambient river was approximately 5.5 °F for August 2002, a month in which both BVPS–1 and 2 units were operated at or near full power and ambient temperature of the Ohio River averaged 82 °F, at or near its highest of the year. Considering the expected maximum increase of less than 3 °F in blowdown temperature at design conditions noted above, FENOC therefore expects that this monthly average temperature differential during summer months when ambient river temperatures are highest (between June–August) would range from approximately 5 °F to 10 °F when both units are operating at maximum power levels of 2,900 MWt. As noted above, temperature effects would not be expected to challenge NPDES permit parameters or EPA standards for the Ohio River.

The annual average flow of the Ohio River at the BVPS–1 and 2 site is 39,503 cubic feet per second (cfs; or 1.25×10^{12} cubic feet per year), which meets NRC's annual flow criterion for classification as a small river. The results of FENOC's analysis indicate that the lowest average flow in the Ohio River at the BVPS site is approximately 5,300 cfs, which occurs once in 10 years for 7-day duration. Based on estimates from the U.S. Army Corps of Engineers, the minimum expected flow under conditions corresponding to the lowest flow of record, which occurred in 1930, is approximately 4,000 cfs. Consumptive water losses resulting from BVPS–1 and 2 operation comprise a very small fraction of flow in the Ohio River, even under low flow conditions. FENOC estimates that the maximum consumptive loss that would occur if both BVPS–1 and 2 were operated at their maximum uprated power level (2,900 MWt per unit) would be approximately 59 cfs or 1.1 percent and 1.5 percent of the once-in-10-year low flow rate and the lowest flow of record of the Ohio River, respectively.

The EPU would not involve any configuration change to the intake structure. The pump capacity would not change; therefore, there would not be an increase in the rate of withdrawal of water from the Ohio River. There would be a slight increase in the amount of Ohio River water consumed as a result of the EPU under all cooling modes of operation due to increased evaporative losses. However the increased evaporative loss would be insignificant relative to the flow in the Ohio River, even under low flow conditions. Therefore, the NRC staff concludes that there would be no significant impact to the hydrological pattern of the Ohio River, and there would be no significant impact to plant water supply due to the proposed action.

Discharge Impacts

Once cooling water from the BVPS–1 plant river and raw water system has served its plant components, it is discharged to the BVPS–1 CWS to make up operational water losses from that system. Similarly, once cooling water from the BVPS–2 SWS has served its plant components, most of it is discharged to the BVPS–2 CWS downstream from the main condenser to replace operational losses from that system. As much as 8,400 gpm (19 cfs) originating from the BVPS–2 primary (reactor plant) heat exchangers and components is discharged to the Ohio River via the emergency outfall structure to reduce silt accumulation in that system. Under normal plant operations, the temperature of this discharge to the emergency outfall structure is approximately 12 °F above ambient river temperature. FENOC calculations indicate that operation at the EPU power level of 2,900 MWt would increase this temperature by less than 1 °F.

Makeup water is supplied to the BVPS–1 closed-loop CWS by discharging the plant river and raw water (service water for BVPS–2) into the circulating water condenser discharge lines. In these systems, water heated by passage through the main condensers is circulated through the CTs, where waste heat is removed primarily by evaporation. The cooled water, which accumulates in a basin beneath each CT, is recirculated back through the main condensers. CWS system flow would remain essentially unchanged following the EPU. The increased levels of rejected heat resulting from an increase in turbine exhaust flow would increase the CWS condenser outlet temperature by less than 3 °F at bounding design condition.

No additional chemical usage is planned as a result of operation at EPU conditions. No additional pumps to increase water usage would be added. Therefore, total chemical mass and concentration in the service and river water systems would not be changed, and the chemical mass in the CWSs would not be changed. BVPS–1 and 2 site operations have had no known impact on public health from thermophilic microbial pathogens. Risk to human health is low due to poor conditions for supporting populations of such organisms in the Ohio River, including areas affected by the thermal discharge, and low potential for exposure of the public in the thermally affected zone.

The impacts of continued dredging generally were determined to be minor for other resources, including aquatic macroinvertebrates, fish, aquatic vegetation, wetlands, and terrestrial biota (*e.g.*, riparian zone communities). In the Commonwealth of Pennsylvania, these dredging activities require dredging permits issued by the U.S. Army Corps of Engineers and Water Obstruction and Encroachment Permits and Sand and Gravel License Agreements issued by the Pennsylvania Department of Environmental Protection, which act to control these activities to ensure that adverse environmental impacts are minimized. At BVPS–1 and 2, most of the cooling water is recirculated and kept at a relatively high temperature. The once-through cooling water discharged at the emergency outfall structure and the CT blowdown are routinely treated with biocides, including calcium hypochlorite. Some residual chlorine, within limits prescribed in the NPDES permit, may be discharged. These biocide applications significantly reduce the likelihood that microbial pathogens would be discharged into the area of concern or pose occupational health risks. Limited access by members of the public to waters and sediment in the immediate cooling water discharge areas further lowers health risks. Access to the BVPS–1 and 2 site by members of the public is subject to control, and shore-based recreation (*e.g.*, fishing) on the property by the public is not permitted. In addition, the U.S. Coast Guard has established a Restricted Use Zone encompassing all waters extending 200 feet from FENOC's BVPS property line along the southeastern shoreline of the Ohio River. Entry of persons or vessels into this Restricted Use Zone is prohibited unless authorized by the Coast Guard Captain of the Port of Pittsburgh or his designated representative.

FENOC is not aware of any public health concerns or incidents related to the BVPS–1 and 2 site cooling water discharge. In response to FENOC's

general request to agencies for information as part of its new and significant information review for the EPU, the Pennsylvania Department of Health indicated that it was not aware of any significant health issues that might result from the EPU. Therefore, the NRC staff concludes that the environmental impacts of the proposed action associated with BVPS–1 and 2 discharge would not be significant.

Impacts on Aquatic Biota

The potential impacts to aquatic biota from the proposed action include impingement, entrainment, thermal discharge effects, and impacts due to transmission line right-of-way maintenance. BVPS–1 and 2 has intake and discharge structures on the Ohio River. The aquatic species evaluated in this EA are those which occur in the vicinity of the intake and discharge structures.

Closed-cycle cooling reduces potential impacts from impingement, entrainment, and thermal discharge. Under normal operating conditions, both BVPS–1 and 2 units are not shut down simultaneously, reducing potential impacts from cold shock. Considered together with the small quantity of river water the BVPS–1 and 2 closed-loop cooling system requires, the potential for fish entrainment and impingement is greatly reduced by the design and operation of the intake structure.

Population increases of some fish species have apparently occurred since BVPS–1 and 2 initiated operation. Annual monitoring of the fish community at BVPS–1 and 2 indicates the presence of special-status fish species at both control and non-control stations. Monitoring conducted at BVPS–1 and 2 from 1976 through 1995 indicated that impacts from entrainment of fish eggs and larvae were not significant, and that impingement losses were small and had little impact on fish populations. Review of BVPS–1 and 2 annual monitoring reports and the BVPS–2 Operating License Stage Environmental Review (ER) indicates that none of these special status species were specifically identified in egg and larvae samples collected during entrainment monitoring. The impacts of impingement of fish and shellfish are negligible, and would not be expected to increase as a result of the proposed action. The BVPS–1 and 2 NPDES permit specifies that the discharge may not change the temperature of the receiving stream by more than 2 °F in any one hour. The data evaluated indicate that the post-EPU discharges would not challenge this NPDES permit parameter.

The EPU would not increase the amount of water withdrawn from the river, and the increased discharge temperature would not compromise the NPDES permit parameters, and therefore, would not result in significant environmental impacts. As discussed in the transmission facility impacts section of this EA, there are no changes in the transmission line right-of-way maintenance practices associated with the proposed action. Therefore, the NRC staff concludes that there are no significant adverse impacts to aquatic biota for the proposed action.

Impacts on Terrestrial Biota

The potential impacts to terrestrial biota from the proposed action include impacts due to transmission line right-of-way maintenance. As discussed in the transmission facility impacts section of this EA, transmission line right-of-way maintenance practices would not change for the proposed action. FENOC does not plan to conduct major refurbishment or significant land-disturbing activities to implement the EPU. Therefore, the NRC staff concludes that there are no significant impacts to terrestrial biota associated with transmission line right-of-way maintenance for the proposed action.

Impacts on Threatened and Endangered Species

Potential impacts to threatened and endangered species from the proposed action include the impacts assessed in the aquatic and terrestrial biota sections of this EA. These impacts include impingement, entrainment, thermal discharge effects, and impacts due to transmission line right-of-way maintenance for aquatic species, and impacts due to transmission line right-of-way maintenance or construction refurbishment activities for terrestrial species.

There are eleven species listed as threatened or endangered under the Federal Endangered Species Act within Beaver County, Pennsylvania. These include the following:

TABLE 1.--THREATENED AND ENDANGERED SPECIES FOR BEAVER COUNTY, PA

Mussels	*Northern riffleshell (Epioblasma torulosa rangiana), Clubshell (Pleurobema clava), Dwarf wedgemussel (Alasmidonta heterodon)*
Fish	*Shortnose sturgeon (Acipenser brevirostrum)*
Plants	*Small-whorted pogonia (Isotria medeoloides), Northeastern bulrush (Scirpus ancistrochaetus)*
Reptiles	*Bog turtle (Clemmys mublenbergii), Eastern massasauga rattlesnake (Sistrurus catenatus catenatus)*
Birds	*Bald eagle (Haliaeetus leucocephalus), Piping plover (Charadrius melodus)*
Mammals	*Indiana bat (Myotis sodalis)*

Consultations with the FWS have been conducted to verify that this list of threatened or endangered species of potential concern to the BVPS–1 and 2 EPU is accurate. In a letter dated October 2, 2003, the Pennsylvania FWS stated that there are no federally listed or proposed threatened or endangered species under its jurisdiction in the vicinity of BVPS–1 and 2. FWS indicates that no federally listed or proposed threatened and endangered species are known to occur within the project impact area. The NRC staff's review and conclusions for each species is presented in the following paragraphs.

The species of concern consist of three mussels, two plants, two reptiles, two birds, one fish, and one mammal. The three federally listed mussel species were last documented as occurring in the upper Ohio River or lower Allegheny River in early 1900s. The Clubshell mussel (*Pleurobema clava*) and Northern riffleshell mussel (*Epioblasma torulosa rangiana*) have been collected in the French Creek and Allegheny River watersheds in Clarion, Crawford, Erie, Forest, Mercer, Venango, and Warren Counties; no adverse impacts to these mussels are known to occur from the proposed actions.

The two mussel species known to occur in the area are typically found in areas with substrates composed of clean gravel or a mix of sand and gravel, and which have moderate water current. However, the Northern riffleshell mussel has also been collected in quieter waters, such as in the Great Lakes at a depth of greater than 35 feet on suitable substrate. The Northern riffleshell mussel prefers firmly packed gravel or sand. Potential habitats might

include islands, nearshore areas, and the head ends of pools. The FWS has not designated critical habitat for this species. Since there has not been extensive dive sampling throughout the study area, it is not known with certainty whether this species occurs in other pools of the Allegheny and Ohio Rivers.

The two federally listed plant species of concern, Small-whorted pogonia (*Isotria medeoloides*) and Northeastern bulrush (*Scirpus ancistrochaetus*), are endangered nationwide and extremely rare. No occurrence records were identified for these species in areas of significance to the BVPS–1 and 2 EPU. Only three populations of Small-whorted pogonia are known to exist in the Commonwealth, none in southwestern Pennsylvania. Information from the Pennsylvania Department of Conservation and Natural Resources indicates that there are no recent historical records of these species in Beaver and Allegheny Counties. Some areas in or near the transmission line corridor may be consistent with the habitat affinities.

The two federally listed reptile species of concern, the Bog turtle (*Clemmys mublenbergii*) and Eastern massasauga rattlesnake, have not been sighted in Beaver or Allegheny Counties. There is little or no suitable wetland habitat on or near the BVPS–1 and 2 site or Beaver Valley-Crescent Line 318 transmission corridor for these species.

The two federally listed bird species, the Bald eagle (*Haliaeetus leucocephalus*) and the Piping plover (*Charadrius melodus*), are endangered, and there are no records of these species on the BVPS–1 and 2 site. According to the FWS, the Bald eagle, a federally listed threatened species, may possibly be found state-wide in Pennsylvania. It is primarily found in riparian areas and is associated with coasts, rivers, and lakes. The Bald eagle usually nests near bodies of water where it feeds. Bald eagles feed primarily on fish, although they may also take a variety of birds, mammals, and turtles when fish are not readily available. Nesting has been known to occur in Butler County, and it is possible that any resident or transient individuals of this species may feed along the Allegheny or Ohio River corridors within the study area.

The Bald eagle species has been observed along the Ohio River portion at the BVPS–1 and 2 site. To date, no known nesting sites of Bald eagles are noted immediately adjacent to areas that may be dredged. In addition, critical habitat has not been identified for the protection of these species within the Ohio River at or near the BVPS–1 and 2 site.

The federally listed fish species, Shortnose sturgeon (*Acipenser brevirostrum*), is an endangered fish species and has never been known to occur in western Pennsylvania; therefore, it is not expected to occur in the impact area.

The federally listed mammal species, the Indiana bat (*Myotis sodalis*), may be found state-wide in suitable habitat in Pennsylvania as part of its summer range. Preferred winter hibernation sites include limestone caves; abandoned coal, limestone, and iron mines; and abandoned tunnels (one colony is currently using an abandoned railroad tunnel). As many as four winter hibernation sites have been identified in the state to date, including sites in Armstrong County, Blair County, and Somerset County. According to the 1983 USFWS recovery plan for the Indiana bat, there is no critical habitat for the species in Pennsylvania.

Impacts to the eleven threatened and endangered species described above are expected to be small due to one or more of the following: (a) Low potential for occurrence in areas affected by plant and transmission line operation and associated maintenance; (b) protective operation and maintenance practices; and c) lack of observed impacts as documented by operational monitoring. The FWS has listed several species with ranges that include Pennsylvania as threatened or endangered at the Federal level, but has not designated any areas in the Commonwealth as critical habitat for listed species (50 CFR 17.95, 50 CFR 17.96). There is no federally listed threatened and endangered species critical habitat which has been identified on or near the BVPS–1 and 2 site. Therefore, the species described above would not be significantly affected as a result of the EPU. The NRC staff therefore concludes that there is no effect on threatened and endangered species for the proposed action.

Social and Economic Impacts

Potential social and economic impacts due to the proposed action include changes in tax revenue for Beaver County and changes in the size of the workforce at BVPS–1 and 2.

FENOC is now being assessed annual property taxes by Beaver County, Shippingport Borough, and the South Side Area School District. Revenues received by Beaver County support such programs as engineering, recreation, public safety, public works, and emergency services. Revenues received by the Shippingport Borough support such programs as waste management, public works, and public safety.

FENOC employs a permanent workforce of approximately 1,000 employees and approximately 500 contractors at the BVPS–1 and 2 site. No additional permanent employees would be expected as a result of the EPU. Approximately 55 percent of the permanent workforce live in Beaver County and 27 percent live in Allegheny County. The remaining employees live in various other locations. FENOC refuels BVPS–1 and 2 at intervals of approximately 18 months. During refueling outages, site employment increases by as many as 800 workers for temporary (30 to 40 days) duty, and FENOC expects that similar increases would occur for refueling outages as a result of the EPU. The proposed EPU would not significantly impact the size of the BVPS–1 and 2 labor force and would not have a material effect upon the labor force required for future outages.

FENOC's annual property tax payments for BVPS–1 and 2 averaged less than 1 percent of Beaver County's operating budgets for 2000 to 2002. Given the area's declining populations and sluggish growth pattern, EPU tax-driven land-use changes would generate very little new development and minimal changes in the area's land-use patterns. No tax-driven land-use impacts are anticipated because no additional full-time employees would be expected as a result of the EPU. The amount of future property tax payments for BVPS–1 and 2 post-EPU and the proportion of those payments to the operating budgets of Beaver County, South Side Area School District, and Shippingport Borough are dependent on future market value of the units, future valuations of other properties in these jurisdictions, and other factors.

The NRC staff has reviewed the information provided by the licensee regarding socioeconomic impacts. No significant socioeconomic impacts are anticipated because no permanent additional employees are expected as a result of the EPU.

Summary

The proposed EPU would not result in a significant change in non-radiological impacts in the areas of land use, water use, waste discharges, CT operation, terrestrial and aquatic biota, transmission facility operation, or social and economic factors. No other non-radiological impacts were identified or would be expected. Table 2 summarizes the non-radiological environmental impacts of the proposed EPU at BVPS–1 and 2.

TABLE 2.—SUMMARY OF NON-RADIOLOGICAL ENVIRONMENTAL IMPACTS

Land Use	No significant land use modifications; no refurbishment activities with land impacts on historic and archaeological resources.
Cooling Tower	No significant aesthetic impact, slightly larger plume size; no significant increase in noise; no significant fogging or icing.
Transmission Facilities	No physical modifications to transmission lines; lines meet shock safety requirements; no changes to right-of-ways; small increase in electrical current would cause small increase in electromagnetic field around transmission lines.
Water Use	No configuration change to intake structure; no increased rate of withdrawal; slight increase in water consumption due to increased evaporation; no water-use conflicts. No change in ground water use.
Discharge	Increase in water temperature discharged to Ohio River; will meet thermal discharge limits in current NPDES permit at EPU conditions; no additional chemical usage is planned as a result of operation at EPU conditions. EPU will not change conclusions made in the FES.
Aquatic Biota	No additional impact expected on aquatic biota.
Terrestrial Biota	Pennsylvania FWS found no adverse impact from EPU; no additional impact on terrestrial plant or animal species.
Threatened and Endangered Species.	There are eleven federally listed species in Beaver County; EPU will have no effect on these species.
Social and Economic	No significant change in size of BVPS–1 and 2 labor force required for plant operation or future refueling outages.

Radiological Impacts

Radioactive Waste Stream Impacts

BVPS–1 and 2 uses waste treatment systems designed to collect, process, and dispose of gaseous, liquid, and solid wastes that might contain radioactive material in a safe and controlled manner such that discharges are in accordance with the requirements of Title 10 of the *Code of Federal Regulations*, part 20 (10 CFR part 20), "STANDARDS FOR PROTECTION AGAINST RADIATION," and 10 CFR part 50, "DOMESTIC LICENSING OF PRODUCTION AND UTILIZATION FACILITIES," Appendix I. These radioactive waste streams are discussed in the FESs for BVPS–1 and 2.

The proposed EPU would not result in changes in the operation or design of equipment for the gaseous, liquid, or solid waste systems.

Gaseous Radioactive Waste and Offsite Doses

During normal operation, the gaseous effluent treatment systems process and control the release to the environment of gaseous radioactive effluents, including small quantities of noble gases, halogens, tritium, and particulate material. Gaseous radioactive wastes include airborne particulates and gases vented from process equipment and the building ventilation exhaust air. The major sources of gaseous radioactive waste are filtered using charcoal adsorbers, held up for decay using separate pressurized decay tanks, and monitored prior to release to ensure that the dose guidelines of 10 CFR part 50, Appendix I and the limits of 10 CFR part 20 are not exceeded.

Gaseous releases of Kr-85 would increase by approximately the percentage of power increase. Isotopes with shorter half-lives would have varying EPU increase percentages up to a maximum of 18 percent. The impact of the EPU on iodine releases would be slightly greater than the percentage increase in power level. The other components of the gaseous release (i.e., particulates via the building ventilation systems and water activation gases) would not be impacted by the EPU, according to analysis using the methodology outlined in NUREG–0017, "Calculation of Release of Radioactive Materials in Liquid and Gaseous Effluents from Pressurized Water Reactors." Tritium releases in the gaseous effluents increase in proportion to their increased production, which is directly related to core power. The impact of the increased activity in the radwaste systems is primarily in the activity shipped offsite as solid waste. Gaseous releases to the environment would not increase beyond the limits of 10 CFR part 20 and the guidelines of 10 CFR part 50, Appendix I. Therefore, the increase in offsite dose due to gaseous effluent release following implementation of the EPU would not be significant.

Liquid Radioactive Waste and Offsite Doses

During normal operation, the liquid effluent treatment systems process and control the release of liquid radioactive effluents to the environment, such that the doses to individuals offsite are maintained within the limits of 10 CFR part 20 and the guidelines of 10 CFR part 50, Appendix I. The liquid radioactive waste systems are designed to process the waste and then recycle it within the plant as condensate, reprocess it through the radioactive waste system for further purification, or discharge it to the environment as liquid radioactive waste effluent in accordance with State and Federal regulations.

To bound the estimated impact of EPU on the annual offsite releases, the licensee used the highest percentage change in activity levels of isotopes in each chemical grouping found in the primary reactor coolant and secondary fluids that characterize each unit. The licensee then applied the values to the applicable gaseous and liquid effluent pathways. The percentage change was applied to the doses reported in the licensee's radioactive effluent reports for 1997 through 2001 (adjusted to reflect a 100-percent capacity factor) to calculate the offsite doses following the EPU. The licensee concluded that although the doses increased, they remained below the regulatory requirements of 10 CFR part 20 and the guidelines of Appendix I to 10 CFR part 50.

The EPU would increase the liquid effluent release concentrations by approximately 14 percent, as this activity is based on the long-term reactor coolant system (RCS) and secondary side activity and on waste volumes. Tritium releases in liquid effluents would increase in proportion to their increased production, which is directly related to core power and is allocated between the gaseous and liquid releases in this analysis in the same proportion as pre-EPU releases. However, doses from liquid releases to the environment would not increase beyond the limits of 10 CFR part 20 and the guidelines of 10 CFR part 50, Appendix I. Therefore, there would not be a significant environmental impact from the additional amount of radioactive material generated following implementation of the EPU.

Solid Radioactive Wastes

The solid radioactive waste system collects, processes, packages, and temporarily stores radioactive dry and wet solid wastes prior to shipment offsite and permanent disposal. The volume of solid waste is not expected to increase proportionally with the EPU increment, since the EPU neither would appreciably impact installed equipment

performance, nor would it require drastic changes in system operation or maintenance. Only minor, if any, changes in waste generation volume are expected. This would include the small increase in volume of condensate polishing resins in BVPS–2. However, it is expected that the activity inventories for most of the solid waste would increase proportionately to the increase in long half-life coolant activity. While the total long-lived activity contained in the waste is expected to be bounded by the percentage of the EPU, the increase in the overall volume of waste generation resulting from the EPU is expected to be minor. Therefore, no significant additional waste would be generated due to operation at EPU conditions. Since operation at EPU conditions would not increase the SG blowdown, no significant additional solid waste resin would be generated.

Spent fuel from BVPS–1 and 2 is transferred from the reactors and stored in the respective spent fuel storage pools. There is sufficient capacity in the BVPS–1 fuel storage pool to accommodate that unit, including full core discharge, through the end of its current license term. FENOC anticipates that the capacity of the BVPS–2 spent fuel pool would be exhausted by approximately year 2007, although requests for approval of increased capacity may be undertaken. The increased power level of the EPU would require additional energy for each cycle. To accommodate this extra energy, it is expected that additional fresh feed fuel assemblies would be needed in the core designs. The specific number of feed fuel assemblies (or discharge assemblies) for each cycle will be determined during the core design process, and will take into account expected energy carryover from the previous cycle. FENOC has determined that four additional fresh fuel assemblies would be needed for each refueling under EPU conditions to meet the higher energy needs.

Additional storage capacity would be required beyond the current license terms if spent fuel stored in the pools cannot be transferred to a permanent repository. Installation of additional onsite spent fuel storage capacity, if elected, is an action licensed by the NRC separately from EPU. Current ongoing criticality analysis conducted by the licensee may free up presently unavailable storage in the upcoming months. FENOC plans to request an amendment to increase spent fuel pool storage capacity and to seek approval for dry cask storage at BVPS–1 and 2 by 2014. At this time, the NRC staff concludes that there would be no significant environmental impacts resulting from storage of the additional fuel assemblies.

Direct Radiation Doses Offsite

The licensee evaluated the direct radiation dose to the unrestricted area and concluded that it is not a significant exposure pathway. Since the EPU would only slightly increase the core inventory of radionuclides and the amount of radioactive wastes, the NRC staff concludes that direct radiation dose would not be significantly affected by the EPU and would continue to meet the limits in 10 CFR part 20.

In addition to the dose impact to radioactive gaseous and liquid effluents, the licensee evaluated the dose impact of the EPU on the direct radiation from plant systems and components containing radioactive material to members of the public, as required by 40 CFR part 190.

The licensee's evaluation concluded that the direct radiation doses are not expected to increase significantly over current levels and are expected to remain within the limit of 25 mrem (0.25 mSv) annual whole-body dose equivalent as specified in 40 CFR part 190.

Occupational Dose

Occupational exposures from in-plant radiation primarily occur during routine maintenance, special maintenance, and refueling operations. An increase in power at BVPS–1 and 2 could increase the radiation levels in the RCS. However, plant programs and administrative controls such as shielding, plant chemistry, and the radiation protection program would help compensate for these potential increases.

The licensee's assessment takes into consideration that following EPU, the operation and layout/arrangement of plant radioactive systems would remain consistent with the original design. The EPU assessment takes into account that normal operational dose rates and dose to members of the public and to plant workers must continue to meet the requirements of 10 CFR part 20 and radioactive effluent release license conditions.

The NRC staff has evaluated the licensee's plan regarding occupational exposure related to the EPU. The licensee has evaluated the impact of the EPU on the radiation source terms in the reactor core, irradiated fuels/objects, RCS and downstream radioactive systems. These source terms are expected to increase by approximately 7.9 percent after a core power uprate from 2689 MWt to 2900 MWt. The radiation exposure received by plant personnel would be expected to increase by approximately the same percentage. The above increase in radiation levels would not affect the radiation zoning or shielding requirements in the various areas of the plant because the increase due to EPU would be offset by the conservatism in the pre-EPU "design-basis" source terms used to establish the radiation zones by BVPS–1 and 2 Technical Specifications (TSs) that limit the RCS concentrations to levels well below the design-basis source terms, and by conservative analytical techniques used to establish shielding requirements. Regardless, individual worker exposures would be maintained within acceptable limits by the site Radiation Protection Program, which controls access to radiation areas. In addition, procedural controls and As Low as Reasonably Achievable (ALARA) techniques are used to limit doses in areas having increased radiation levels. Therefore, the annual average collective occupational dose after the EPU is implemented would still be well below the value expected when the FESs were published.

Summary of Dose Impacts

On the basis of the NRC staff's review of the BVPS–1 and 2 license amendment request, the staff concludes that the proposed 8-percent power uprate would not have a significant effect on occupational dose or members of the public from radioactive gaseous and liquid effluent releases. The licensee has programs and procedures in place to ensure that radiation doses are maintained ALARA in accordance with the requirements of 10 CFR 20.1101, Appendix I to 10 CFR part 50, and 40 CFR part 190. Therefore, the staff finds the dose impacts from the proposed EPU at the BVPS–1 and 2 to be acceptable from a normal operations perspective.

Postulated Accident Doses

As a result of implementation of the proposed EPU, there would be an increase in the source term used in the evaluation of some of the postulated accidents in the FESs. The inventory of radionuclides in the reactor core is dependent upon power level; therefore, the core inventory of radionuclides could increase by as much as 8 percent. The concentration of radionuclides in the reactor coolant may also increase by as much as 8 percent; however, this concentration is limited by the BVPS–1 and 2 TSs. Therefore, the reactor coolant concentration of radionuclides would not be expected to increase significantly. This coolant concentration

is part of the source term considered in some of the postulated accident analyses. Some of the radioactive waste streams and storage systems evaluated for postulated accidents may contain slightly higher quantities of radionuclides. For those postulated accidents where the source term has increased, the calculated potential radiation dose to individuals at the site boundary (the exclusion area) and in the low population zone would be increased over values presented in the FESs. As a result of the proposed EPU, plant radioactive source terms would be anticipated to increase proportionally to the actual power level increase.

The NRC staff has reviewed the licensee's analyses and performed confirmatory calculations to verify the acceptability of the licensee's calculated doses under accident conditions. The NRC staff's independent review of dose calculations under postulated accident conditions determined that dose would be within regulatory limits. Therefore, the NRC staff concludes that the EPU would not significantly increase the consequences of accidents and would not result in a significant increase in the radiological environmental impact of BVPS–1 and 2 from postulated accidents.

Fuel Cycle and Transportation Impacts

The environmental impacts of the fuel cycle and transportation of fuels and wastes are described in Tables S–3 and S–4 of 10 CFR 51.51 and 10 CFR 51.52, respectively. An additional NRC generic EA (53 FR 30355, dated August 11, 1988, as corrected by 53 FR 32322, dated August 24, 1988) evaluated the applicability of Tables S–3 and S–4 to higher burnup cycles and concluded that there is no significant change in environmental impact from the parameters evaluated in Tables S–3 and S–4 for fuel cycles with uranium enrichments up to 5 weight percent Uranium-235 and burnups less than 60,000 megawatt (thermal) days per metric ton (MWd/MTU). Both BVPS–1 and 2 would maintain their nominal 18-month refueling cycles with the EPU. Therefore, the environmental impacts of the EPU would remain bounded by the impacts in Tables S–3 and S–4 and would not be significant.

Summary

The proposed EPU would not significantly increase the potential radiological consequences of design-basis accidents, would not result in a significant increase in occupational or public radiation exposure, and would not result in significant additional fuel cycle environmental impacts. Accordingly, the Commission concludes that there are no significant radiological environmental impacts associated with the proposed action. Table 3 summarizes the radiological environmental impacts of the proposed EPU at BVPS–1 and 2.

Alternatives to Proposed Action

As an alternative to the proposed action, the NRC staff considered denial of the proposed EPU (i.e., the "no-action" alternative). Denial of the application would result in no change in the current environmental impacts. However, if the EPU were not approved, other agencies and electric power organizations may be required to pursue other means of providing electric generation capacity to offset future demand such as fossil fuel power generation. Construction and operation of a fossil-fueled plant would create impacts in air quality, land use, and waste management significantly greater than those identified for the EPU at BVPS–1 and 2.

Implementation of the proposed EPU would have less impact on the environment than the construction and operation of a new fossil-fueled generating facility or the operation of fossil-fueled facilities outside the service area.

Alternative Use of Resources

This action does not involve the use of any resources not previously considered in the FESs.

TABLE 3.—SUMMARY OF RADIOLOGICAL ENVIRONMENTAL IMPACTS

Gaseous Effluents and Doses.	Slight increase in dose due to gaseous effluents; doses to individuals offsite will remain within NRC limits.
Liquid Effluents and Doses	14-percent increase in liquid effluent release concentrations; 14-percent increase for doses due to liquid effluent pathway are still well within the 10 CFR part 50, Appendix I guidelines, so no significant increase in dose to public is expected.
Solid Radioactive Waste ..	Volume of solid waste is not expected to increase; within FES estimate; increase in amount of spent fuel assemblies; future application for dry cask storage.
In-plant Dose	Occupational dose could increase by 7.9 percent; will remain within FES estimate.
Direct Radiation Dose	Dose expected to increase the same percentage as the EPU for dose rates offsite; expected annual dose continues to meet NRC/EPA limits.
Postulated Accidents	Licensee concluded doses are within NRC limits.
Fuel Cycle and Transportation.	Impacts in Tables S–3 and S–4 in 10 CFR Part 51, "ENVIRONMENTAL PROTECTION REGULATIONS FOR DOMESTIC LICENSING AND RELATED REGULATORY FUNCTIONS," are bounding.

Agencies and Persons Consulted

In accordance with its stated policy, on July 6, 2006, the NRC staff consulted with the Pennsylvania State official, Lawrence Ryan, of the Pennsylvania Department of Environmental Protection, regarding the environmental impact of the proposed action. The State official had no comments.

Finding of No Significant Impact

On the basis of the environmental assessment, the Commission concludes that the proposed action will not have a significant effect on the quality of the human environment. Accordingly, the Commission has determined not to prepare an environmental impact statement for the proposed action.

For further details with respect to the proposed action, see the licensee's application dated October 4, 2004, as supplemented by letters dated February 23, May 26, June 14, July 8 and 28, August 26, September 6, October 7, 28, and 31, November 8, 18, and 21, December 2, 6, 9, 16, and 30, 2005, and January 25, February 14 and 22, March 10 and 29, May 12, and July 6, 2006. Documents may be examined, and/or copied for a fee, at the NRC's Public Document Room (PDR), located at One White Flint North, Public File Area O1F21, 11555 Rockville Pike (first floor), Rockville, Maryland. Publicly available records will be accessible electronically from the Agencywide Documents Access and Management System (ADAMS) Public Electronic Reading Room on the NRC Web site, *http://www.nrc.gov/reading-rm/adams.html*. Persons who do not have access to ADAMS or who encounter problems in accessing the documents

located in ADAMS should contact the NRC PDR Reference staff at 1–800–397–4209, or 301–415–4737, or send an e-mail to *pdr@nrc.gov*.

Dated at Rockville, Maryland, this 10th day of July, 2006.

For the Nuclear Regulatory Commission.

Timothy G. Colburn,

Senior Project Manager, Plant Licensing Branch I–1, Division of Operating Reactor Licensing, Office of Nuclear Reactor Regulation.

[FR Doc. E6–11113 Filed 7–13–06; 8:45 am]

BILLING CODE 7590–01–P

OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

Determination of Eligibility for Retroactive Duty Treatment Under the Dominican Republic—Central America—United States Free Trade Agreement

AGENCY: Office of the United States Trade Representative.

ACTION: Notice.

SUMMARY: Pursuant to Section 205(b) of the Dominican Republic—Central America—United States Free Trade Agreement Implementation Act (the Act), the United States Trade Representative (USTR) is providing notice of her determination that Guatemala is an eligible country for purposes of retroactive duty treatment as provided in Section 205 of the Act.

DATES: *Effective Date:* July 14, 2006.

ADDRESSES: Inquiries may be mailed, delivered, or faxed to Abiola Heyliger, Director of Textile Trade Policy, Office of the United States Trade Representative, 600 17th Street, NW., Washington, DC 20508, fax number, (202) 395–5639.

FOR FURTHER INFORMATION CONTACT: Abiola Heyliger, Office of the United States Trade Representative, 202–395–3026.

SUPPLEMENTARY INFORMATION: Section 205(a) of the Act (Pub. Law 109–53; 119 Stat. 462, 483; 19 U.S.C. 4034) provides that certain entries of textile or apparel goods of designated eligible countries that are parties to the Dominican Republic—Central America—United States Free Trade Agreement (CAFTA–DR) made on or after January 1, 2004 may be liquidated or reliquidated at the applicable rate of duty for those goods established in the Schedule of the United States to Annex 3.3 of the CAFTA–DR. Section 205(b) of the Act requires the USTR to determine, in accordance with Article 3.20 of the CAFTA–DR, which CAFTA–DR countries are eligible countries for purposes of Section 205(a). Article 3.20 provides that importers may claim retroactive duty treatment for imports of certain textile or apparel goods entered on or after January 1, 2004 and before the entry into force of CAFTA–DR from those CAFTA–DR countries that will provide reciprocal retroactive duty treatment or a benefit for textile or apparel goods that is equivalent to retroactive duty treatment.

Pursuant to Section 205(b) of the Act, I have determined that Guatemala will provide an equivalent benefit for textile or apparel goods of the United States within the meaning of Article 3.20 of the CAFTA–DR. I therefore determine that Guatemala is an eligible country for purposes of Section 205 of the Act.

Susan C. Schwab,

U.S. Trade Representative.

[FR Doc. E6–11065 Filed 7–13–06; 8:45 am]

BILLING CODE 3190–W6–P

PENSION BENEFIT GUARANTY CORPORATION

Required Interest Rate Assumption for Determining Variable-Rate Premium for Single-Employer Plans; Interest on Late Premium Payments; Interest on Underpayments and Overpayments of Single-Employer Plan Termination Liability and Multiemployer Withdrawal Liability; Interest Assumptions for Multiemployer Plan Valuations Following Mass Withdrawal

AGENCY: Pension Benefit Guaranty Corporation.

ACTION: Notice of interest rates and assumptions.

SUMMARY: This notice informs the public of the interest rates and assumptions to be used under certain Pension Benefit Guaranty Corporation regulations. These rates and assumptions are published elsewhere (or can be derived from rates published elsewhere), but are collected and published in this notice for the convenience of the public. Interest rates are also published on the PBGC's Web site (*http://www.pbgc.gov*).

DATES: The required interest rate for determining the variable-rate premium under part 4006 applies to premium payment years beginning in July 2006. The interest assumptions for performing multiemployer plan valuations following mass withdrawal under part 4281 apply to valuation dates occurring in August 2006. The interest rates for late premium payments under part 4007 and for underpayments and overpayments of single-employer plan termination liability under part 4062 and multiemployer withdrawal liability under part 4219 apply to interest accruing during the third quarter (July through September) of 2006.

FOR FURTHER INFORMATION CONTACT: Catherine B. Klion, Attorney, Legislative and Regulatory Department, Pension Benefit Guaranty Corporation, 1200 K Street, NW., Washington, DC 20005, 202–326–4024. (TTY/TDD users may call the Federal relay service toll-free at 1–800–877–8339 and ask to be connected to 202–326–4024.)

SUPPLEMENTARY INFORMATION:

Variable-Rate Premiums

Section 4006(a)(3)(E)(iii)(II) of the Employee Retirement Income Security Act of 1974 (ERISA) and § 4006.4(b)(1) of the PBGC's regulation on Premium Rates (29 CFR part 4006) prescribe use of an assumed interest rate (the "required interest rate") in determining a single-employer plan's variable-rate premium. The required interest rate is the "applicable percentage" (currently 85 percent) of the annual yield on 30-year Treasury securities for the month preceding the beginning of the plan year for which premiums are being paid (the "premium payment year"). The required interest rate to be used in determining variable-rate premiums for premium payment years beginning in July 2006 is 4.39 percent (*i.e.*, 85 percent of the 5.16 percent Treasury Securities Rate for June 2006).

The Pension Funding Equity Act of 2004 ("PFEA")—under which the required interest rate is 85 percent of the annual rate of interest determined by the Secretary of the Treasury on amounts invested conservatively in long-term investment grade corporate bonds for the month preceding the beginning of the plan year for which premiums are being paid—applies only for premium payment years beginning in 2004 or 2005. Congress is considering legislation that would extend the PFEA rate for one more year. If legislation that changes the rules for determining the required interest rate for plan years beginning in July 2006 is adopted, the PBGC will promptly publish a **Federal Register** notice with the new rate.

The following table lists the required interest rates to be used in determining variable-rate premiums for premium payment years beginning between August 2005 and July 2006.

For premium payment years beginning in:	The required interest rate is:
August 2005	4.56
September 2005	4.61

For premium payment years beginning in:	The required interest rate is:
October 2005	4.62
November 2005	4.83
December 2005	4.91
January 2006	3.95
February 2006	3.90
March 2006	3.89
April 2006	4.02
May 2006	4.30
June 2006	4.42
July 2006	4.39

Late Premium Payments; Underpayments and Overpayments of Single-Employer Plan Termination Liability

Section 4007(b) of ERISA and § 4007.7(a) of the PBGC's regulation on Payment of Premiums (29 CFR part 4007) require the payment of interest on late premium payments at the rate established under section 6601 of the Internal Revenue Code. Similarly, § 4062.7 of the PBGC's regulation on Liability for Termination of Single-Employer Plans (29 CFR part 4062) requires that interest be charged or credited at the section 6601 rate on underpayments and overpayments of employer liability under section 4062 of ERISA. The section 6601 rate is established periodically (currently quarterly) by the Internal Revenue Service. The rate applicable to the third quarter (July through September) of 2006, as announced by the IRS, is 8 percent.

The following table lists the late payment interest rates for premiums and employer liability for the specified time periods:

From—	Through—	Interest rate (percent)
4/1/00	3/31/01	9
4/1/01	6/30/01	8
7/1/01	12/31/01	7
1/1/02	12/31/02	6
1/1/03	9/30/03	5
10/1/03	3/31/04	4
4/1/04	6/30/04	5
7/1/04	9/30/04	4
10/1/04	3/31/05	5
4/1/05	9/30/05	6
10/1/05	6/30/06	7
7/1/06	9/30/06	8

Underpayments and Overpayments of Multiemployer Withdrawal Liability

Section 4219.32(b) of the PBGC's regulation on Notice, Collection, and Redetermination of Withdrawal Liability (29 CFR part 4219) specifies the rate at which a multiemployer plan is to charge or credit interest on underpayments and overpayments of withdrawal liability under section 4219 of ERISA unless an applicable plan provision provides otherwise. For interest accruing during any calendar quarter, the specified rate is the average quoted prime rate on short-term commercial loans for the fifteenth day (or the next business day if the fifteenth day is not a business day) of the month preceding the beginning of the quarter, as reported by the Board of Governors of the Federal Reserve System in Statistical Release H.15 ("Selected Interest Rates"). The rate for the third quarter (July through September) of 2006 (*i.e.*, the rate reported for June 15, 2006) is 8.00 percent.

The following table lists the withdrawal liability underpayment and overpayment interest rates for the specified time periods:

From—	Through—	Interest rate (percent)
7/1/00	3/31/01	9.50
4/1/01	6/30/01	8.50
7/1/01	9/30/01	7.00
10/1/01	12/31/01	6.50
1/1/02	12/31/02	4.75
1/1/03	9/30/03	4.25
10/1/03	9/30/04	4.00
10/1/04	12/31/04	4.50
1/1/05	3/31/05	5.25
4/1/05	6/30/05	5.50
7/1/05	9/30/05	6.00
10/1/05	12/31/05	6.50
1/1/06	3/31/06	7.25
4/1/06	6/30/06	7.50
7/1/06	9/30/06	8.00

Multiemployer Plan Valuations Following Mass Withdrawal

The PBGC's regulation on Duties of Plan Sponsor Following Mass Withdrawal (29 CFR part 4281) prescribes the use of interest assumptions under the PBGC's regulation on Allocation of Assets in Single-Employer Plans (29 CFR part 4044). The interest assumptions applicable to valuation dates in August 2006 under part 4044 are contained in an amendment to part 4044 published elsewhere in today's **Federal Register**. Tables showing the assumptions applicable to prior periods are codified in Appendix B to 29 CFR part 4044.

Issued in Washington, DC, on this 7th day of July 2006.

Vincent K. Snowbarger,

Acting Executive Director, Pension Benefit Guaranty Corporation.

[FR Doc. E6–11100 Filed 7–13–06; 8:45 am]

BILLING CODE 7709–01–P

POSTAL RATE COMMISSION

[Docket No. MC2006–5; Order No. 1470]

Periodicals Nominal Rate Minor Classification Change

AGENCY: Postal Rate Commission.

ACTION: Notice and order.

SUMMARY: This order announces a mail classification docket to consider a proposal to amend the definition of "nominal rate" subscription for publications in the Periodicals class. Estabishing this docket will allow interested persons to participate in the Commission's consideration of the proposed change, which liberalizes the current definition. It will also allow them to comment on the appropriateness of treating the case on an expedited basis. The order identifies preliminary procedural steps, including appointment of the Postal Service as settlement coordinator.

DATES: 1. Deadline for filing library reference containing documentation of definition change adopted by national audit bureaus: July 25, 2006; 2. Deadline for filing notices of intervention and participants' statements concerning compliance with filing-requirements and conditional motion for waiver: August 1, 2006; 3. Deadline for filing status report on settlement negotiations: August 4, 2006.

ADDRESSES: File all documents referred to in this order electronically via the Commission's Filing Online system at *http://www.prc.gov.*

FOR FURTHER INFORMATION CONTACT: Stephen L. Sharfman, 202–789–6820.

SUPPLEMENTARY INFORMATION:

I. Introduction

Notice is hereby given that on July 6, 2006, the Postal Service filed a request with the Postal Rate Commission for a recommended decision on a proposal to amend the definition of a "nominal rate" subscription for publications in the Periodicals class.[1] The Service filed its Request pursuant to section 3623 of the Postal Reorganization Act, 39 U.S.C. 101 *et seq.* It has denominated its proposal as a minor mail classification change and has requested expedited

[1] Request of the United States Postal Service for a Recommended Decision on Change of Definition of Nominal Rate for Periodicals Subscriptions, July 6, 2006 (Request). The Request includes three attachments. Attachment A to the Request sets out the proposed change to the text of the Domestic Mail Classification Schedule. Attachment B is an index of testimony. Attachment C contains the Service's Compliance Statement addressing the filing requirements of rules 64 and 69a, or noting a request for waiver of certain filing requirements.

consideration under Commission rules governing such requests.[2]

The Request was accompanied by witness Yeh's supporting testimony [3] and several contemporaneous filings. The latter are identified as Notice of Filing of Request of the United States Postal Service for a Recommended Decision on Change of Definition of Nominal Rate for Periodicals Subscriptions (Notice); Statement of the United States Postal Service Concerning Compliance with Filing Requirements and Conditional Motion for Waiver (Combined Pleading); and United States Postal Service Request for Establishment of Settlement Procedures (Settlement Request).[4]

II. Proposal

The Service, through witness Yeh, proposes revising the definition of a nominal rate subscription to allow a reduction of up to 70 percent of the basic annual subscription rate for a copy of a Periodicals publication to qualify as part of paid circulation. The current reduction is 50 percent. The proposal affects only the definition of a nominal rate subscription; it does not alter a requirement (in DMCS 412.31) that more than 50 percent of the copies of a publication be circulated to persons who have paid more than a nominal rate. USPS–T–1 at 1–2.

Witness Yeh identifies the applicable DMCS provisions (DMCS 412.33b) and describes the rationale for the change. The latter includes, among other points, Yeh's assertion that the change would allow publishers to take advantage of the elimination of a similar nominal rate definition in the bylaws and rules of national audit bureaus and to offset loss of subscriptions from recent sweepstakes legislation. Yeh also reviews classification criteria and issues, addresses the consistency of the proposal with the Commission's criteria for an expedited minor classification change, and asserts that the Service foresees no measurable financial impact from adoption of the proposal. *Id.* at 5.

III. Grounds for Characterizing the Requested Change as Minor

The Request asserts that the proposed change conforms with the criteria for consideration of expedited minor mail classification changes, noting that it does not involve a change in any existing rate or fee; does not impose any additional eligibility restrictions; and will not significantly change the estimated cost contribution of the affected subclasses. Request at 2. *See also* USPS–T–1 at 4–5.

IV. Authorization of Settlement Proceedings

The Postal Service asks that the Commission establish settlement procedures in this case. In support of this request, the Service asserts that it does not believe the proposed change will be controversial, as it is intended to meet the interests of the Postal Service and its Periodicals customers. It notes that the proposal would relax an eligibility requirement, and is not expected to harm any mailers. Request at 1–2; Settlement Request at 1.

Given the limited nature of the proposal, the Commission authorizes settlement proceedings in this case and appoints Postal Service counsel to serve as settlement coordinator. This authorization is without prejudice to the right of a participant to request a hearing under rule 69b(h) and the Commission's right to determine that a hearing shall be held. The Commission directs the Postal Service to file a written status report on settlement negotiations by 12 noon, August 4, 2006.

V. Compliance With (and Conditional Request for Waiver of) Filing Requirements

In the Combined Pleading, the Postal Service notes that its Compliance Statement (Request, Attachment C) identifies information contained in witness Yeh's testimony and supporting documentation intended to satisfy the filing requirements of pertinent provisions of Commission rules 64 and 69a. Combined Pleading at 1. In particular, it notes that it has supplemented materials developed specifically for this filing by incorporating documentation it submitted in connection with Docket No. R2006–1, the recently-filed omnibus rate proceeding. It asserts that it believes that most of the specific requirements pertaining to classes of mail and special services are met by incorporating the materials from that case. *Id.* The Service further contends that in assessing compliance, substantial weight should be given to the extremely limited nature of the proposed classification change and the tiny magnitude of its impact on costs, volumes and revenues in total and for particular mail categories and services. *Id.* at 2. It notes that in the event that total cost-revenue relationships might be affected by the changed definition, any changes to those relationships are likely to be so minor as not to warrant amendment of the rate case testimony beyond the additional information provided in this docket. *Id.*

In the event the Commission concludes that the materials from other dockets or filed in the instant docket fail to satisfy the filing requirements of rules 64(b)(1)–(4); 64(c)(1)–(3); 64(d); 64(h) and 69a(a), the Service requests that those requirements be waived in full or in part. It also requests that the Commission confirm that the Postal Service has complied with the filing requirements. *Id.* at 2–3.

VI. Intervention; Commission Determination on Application of Expedited Procedures

Rule 69b affords interested parties 26 days after the filing of the Service's Request to intervene and respond to the Postal Service's proposal to have this request considered under rule 69's expedited procedures. The Service's Notice accurately notes that this equates to a deadline of August 1, 2006 for filing notices of intervention. A companion provision (in rule 69b(f)) provides that within 28 days after publication of this notice, the Commission shall decide whether the Request will be considered under rule 69 through 69c, and issue a notice incorporating that ruling. That requirement equates to an August 7, 2006 issuance date for the Commission's determination and ruling.

VII. Public Participation

In conformance with section 3624(a) of title 39, the Commission designates Shelley S. Dreifuss, director of the Commission's Office of the Consumer Advocate (OCA), to represent the interests of the general public in this proceeding. Pursuant to this designation, Ms. Dreifuss will direct the activities of Commission personnel assigned to assist her and, upon request, supply their names for the record. Neither Ms. Dreifuss nor any of the assigned personnel will participate in or provide advice on any Commission decision in this proceeding.

VIII. Request for Supplementation of the Record

Given the Service's interest in expedition and the likelihood that settlement negotiations may limit or preclude discovery, the Commission requests that the Service supplement the record by filing a library reference containing documentation related to the definition change referred to at USPS–T–1 at 2–3. This library reference should be filed no later than July 25, 2006.

[2] 39 CFR 3001.69a.

[3] Direct Testimony of Nina Yeh on Behalf of United States Postal Service, July 6, 2006 (USPS–T–1).

[4] All filed July 6, 2006.

Ordering Paragraphs

It is ordered:

1. The Commission establishes Docket No. MC2006–5, Periodicals Nominal Rate Minor Classification Change, to consider the Postal Service Request referred to in the body of this notice and order.

2. The Commission will sit *en banc* in this proceeding.

3. Notices of intervention shall be filed no later than August 1, 2006.

4. Shelley S. Dreifuss, director of the Commission's Office of the Consumer Advocate, is designated to represent the interests of the general public.

5. Participants' statements addressing the Statement of the United States Postal Service Concerning Compliance with Filing Requirements and Conditional Motion for Waiver, July 6, 2006, are due August 1, 2006.

6. The Commission authorizes settlement proceedings in this proceeding, subject to a subsequent determination that a participant has lodged a meritorious request for a hearing. Postal Service counsel is appointed to serve as settlement coordinator in this proceeding. The Commission will make its hearing room available for settlement conferences at such times deemed necessary by the settlement coordinator.

7. The Postal Service is directed to file a written status report on settlement negotiations by 12 noon, August 4, 2006.

8. The Service is requested to file, in the form of a library reference, documentation relating to the related definition change adopted by national audit bureaus referred to in witness Yeh's testimony by July 25, 2006.

9. The Secretary shall arrange for publication of the Notice and Order in the **Federal Register**.

By the Commission.

Garry J. Sikora,

Acting Secretary.

[FR Doc. E6–11141 Filed 7–13–06; 8:45 am]

BILLING CODE 7710–FW–P

SECURITIES AND EXCHANGE COMMISSION

Sunshine Act; Notice of Meeting

Notice is hereby given, pursuant to the provisions of the Government in the Sunshine Act, Pub. L. 94–409, that the Securities and Exchange Commission will hold the following meeting during the week of July 17, 2006:

A Closed Meeting will be held on Tuesday, July 18, 2006 at 10 a.m.

Commissioners, Counsel to the Commissioners, the Secretary to the Commission, and recording secretaries will attend the Closed Meeting. Certain staff members who have an interest in the matters may also be present.

The General Counsel of the Commission, or his designee, has certified that, in his opinion, one or more of the exemptions set forth in 5 U.S.C. 552b(c)(3), (4), (5), (7), (8), (9)(B), (10) and 17 CFR 200.402(a)(3), (4), (5), (7), (8), (9)(ii), and (10) permit consideration of the scheduled matters at the Closed Meeting.

Commissioner Glassman, as duty officer, voted to consider the items listed for the closed meeting in closed session.

The subject matter of the Closed Meeting scheduled for Tuesday, July 18, 2006 will be:

Regulatory matter regarding financial institution;

Formal order of investigation;

Institution and settlement of injunctive actions;

Institution and settlement of administrative proceedings of an enforcement nature;

Litigation matters; and

An opinion.

At times, changes in Commission priorities require alterations in the scheduling of meeting items.

For further information and to ascertain what, if any, matters have been added, deleted or postponed, please contact: The Office of the Secretary at (202) 551–5400.

Dated: July 11, 2006.

Jill M. Peterson,

Assistant Secretary

[FR Doc. 06–6249 Filed 7–12–06; 10:55 am]

BILLING CODE 8010–01–P

DEPARTMENT OF STATE

[Public Notice 5466]

Culturally Significant Objects Imported for Exhibition Determinations: "Picasso to Cézanne: Ambroise Vollard, Patron of the Avant-Garde"

Summary: Notice is hereby given of the following determinations: Pursuant to the authority vested in me by the Act of October 19, 1965 (79 Stat. 985; 22 U.S.C. 2459), Executive Order 12047 of March 27, 1978, the Foreign Affairs Reform and Restructuring Act of 1998 (112 Stat. 2681, *et seq.*; 22 U.S.C. 6501 note, *et seq.*), Delegation of Authority No. 234 of October 1, 1999, Delegation of Authority No. 236 of October 19, 1999, as amended, and Delegation of Authority No. 257 of April 15, 2003 [68 FR 19875], I hereby determine that the objects to be included in the exhibition "Picasso to Cézanne: Ambroise Vollard, Patron of the Avant-Garde", imported from abroad for temporary exhibition within the United States, are of cultural significance. The objects are imported pursuant to loan agreements with the foreign owners or custodians. I also determine that the exhibition or display of the exhibit objects at The Metropolitan Museum of Art, New York, New York, from on or about September 13, 2006, until on or about January 7, 2007, and at The Art Institute of Chicago, Chicago, Illinois, beginning on or about February 17, 2007, until on or about May 13, 2007, and at possible additional venues are in the national interest. Public Notice of these Determinations is ordered to be published in the **Federal Register.**

For Further Information Contact: For further information, including a list of the exhibit objects, contact Carol B. Epstein, Attorney-Adviser, Office of the Legal Adviser, U.S. Department of State (telephone: 202/453–8050). The address is U.S. Department of State, SA–44, 301 4th Street, SW., Room 700, Washington, DC 20547–0001.

Dated: July 7, 2006.

C. Miller Crouch,

Principal Deputy Assistant Secretary for Educational and Cultural Affairs, Department of State.

[FR Doc. E6–11121 Filed 7–13–06; 8:45 am]

BILLING CODE 4710–05–P

DEPARTMENT OF STATE

[Public Notice 5465]

Determination on U.S. Position on Proposed European Bank for Reconstruction and Development (EBRD) Projects in Serbia

Pursuant to section 561 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 2006 (Pub. L. 109–102) (FOAA), and Department of State Delegation of Authority Number 289, I hereby determine that a 35 million euro equity investment as part of a Joint Venture with Gibor-BSR Europe BV for the purpose of developing, managing and owning real estate, particularly residential projects in capital cities in Romania, Russia, Serbia, Ukraine, Croatia, and Bulgaria, and a 25 million euro equity investment in Bluehouse Accession Property (II), L.P. a limited partnership to be incorporated in Cyprus, will contribute to a stronger economy in Serbia, directly supporting implementation of the Dayton Accords. I therefore waive the application of Section 561 of the FOAA to the extent

that provision would otherwise prevent the U.S. Executive Directors of the EBRD from voting in favor of these projects.

This Determination shall be reported to the Congress and published in the **Federal Register**.

Dated: July 10, 2006.

Daniel Fried,

Assistant Secretary of State for European and Eurasian Affairs, Department of State.

[FR Doc. E6–11114 Filed 7–13–06; 8:45 am]

BILLING CODE 4710–22–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Aviation Rulemaking Advisory Committee Meeting on Transport Airplane and Engine Issues

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of public meeting.

SUMMARY: This notice announces a public meeting of the FAA's Aviation Rulemaking Advisory Committee (ARAC) to discuss transport airplane and engine (TAE) issues.

DATES: The meeting is scheduled for Thursday, August 3, 2006, starting at 11 am eastern daylight time. Arrange for oral presentations by July 28, 2006.

ADDRESSES: Federal Aviation Administration, 800 Independence Ave., SW., Room 810, Washington, DC 20591.

FOR FURTHER INFORMATION CONTACT: John Linsenmeyer, Office of Rulemaking, ARM–207, FAA, 800 Independence Avenue, SW., Washington, DC 20591, Telephone (202) 267–5174, FAX (202) 267–5075, or e-mail at *john.linsenmeyer@faa.gov.*

SUPPLEMENTARY INFORMATION: Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463; 5 U.S.C. app. III), notice is given of an ad hoc ARAC meeting to be held August 3, 2006 at the Federal Aviation Administration, 800 Independence Ave., Room 810, Washington, DC. The meeting/teleconference is being held to consider the report on new advisory material from the Avionics Systems Harmonization Working Group (ASHWG). The report from the ASHWG is a critical part of FAA's effort to develop new guidance for integration of new electronic flight deck display systems for transport category airplanes.

The agenda will include:

- Opening Remarks.
- ASHWG Report.
- FAA update on future activities regarding Advisory Circular 25–11.

Attendance is open to the public, but will be limited to the availability of meeting room space. Please confirm your attendance with the person listed in the **FOR FURTHER INFORMATION CONTACT** section no later than July 28, 2006. Please provide the following information: Full legal name, country of citizenship, and name of your industry association, or applicable affiliation. If you are attending as a public citizen, please indicate so.

For persons participating domestically by telephone, the call-in number is (202) 366–3920; the Passcode is "8348" To insure that sufficient telephone lines are available, please notify the person listed in the **FOR FURTHER INFORMATION CONTACT** section of your intent to participate by telephone by July 28, 2006. Anyone calling from outside the Washington, DC metropolitan area will be responsible for paying long-distance charges.

The public must make arrangements by July 28, 2006, to present oral statements at the meeting. Written statements may be presented to the committee at any time by providing 25 copies to the Assistant Executive Director for Transport Airplane and Engine Issues or by providing copies at the meeting. Copies of the document to be presented to ARAC for decision by the FAA may be made available by contacting the person listed in the **FOR FURTHER INFORMATION CONTACT** section.

If you need assistance or require a reasonable accommodation for the meeting or meeting documents, please contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section. Sign and oral interpretation, as well as a listening device, can be made available if requested 10 calendar days before the meeting.

Issued in Washington, DC on July 10, 2006.

Tony F. Fazio,

Director, Office of Rulemaking.

[FR Doc. E6–11111 Filed 7–13–06; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

[Docket No. FMCSA–2006–25074]

Notice of Request for Comments on Extension of a Currently Approved Information Collection: OMB Control Number 2126–0031 (Annual and Quarterly Report of Class I Motor Carriers of Passengers) (Formerly OMB 2129–0003)

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

ACTION: Notice; request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, the Federal Motor Carrier Safety Administration announces its intent to submit a currently approved Information Collection Request (ICR), Annual and Quarterly Report of Class I Motor Carriers of Passengers, to the Office of Management and Budget (OMB) for review and approval. The ICR describes the relevant information collection activities and their expected costs and burdens. The Agency published a **Federal Register** notice providing a 60-day comment period on this ICR in April 2006 (71 FR 18136, Apr. 10, 2006). The Agency received two comments in support of continuation of this information collection.

DATES: Comments must be submitted on or before August 14, 2006. A comment to OMB is most effective if OMB receives it within 30 days of this publication.

ADDRESSES: Send comments to the Office of Information and Regulatory Affairs, Office of Management and Budget, 725 Seventeenth Street, NW., Washington, DC 20503, Attention: DOT/FMCSA Desk Officer.

FOR FURTHER INFORMATION CONTACT: Ms. Toni Proctor, Federal Motor Carrier Safety Administration, Office of Research and Analysis, Washington, DC 20590; phone (202) 366–2998; Fax (202) 366–3518; e-mail *Toni.Proctor@dot.gov.* Office hours are from 8 a.m. to 4 p.m., e.t., Monday through Friday, except Federal holidays.

SUPPLEMENTARY INFORMATION:

Title: Annual and Quarterly Report of Class I Motor Carriers of Passengers (formerly OMB Control Number 2129–0003). On September 29, 2004, the Secretary of Transportation (Secretary) transferred this information collection (IC) from the Bureau of Transportation Statistics (BTS), now a part of the Research and Innovative Technology

Administration (RITA), to the Federal Motor Carrier Safety Information (FMCSA) (69 FR 51009, Aug. 17, 2004).

FMCSA IC: OMB Control No. 2126–0031.

Form No.: MP–1.

Type of Review: Extension of a currently approved information collection.

Respondents: Class I Motor Carriers of Passengers.

Number of Respondents: 26.

Estimated Time Per Response: 1.5 hours.

Expiration Date: August 31, 2006.

Frequency: Quarterly and Annually.

Total Annual Burden: 195 hours [130 responses x 1.5 hour per response = 195 hours].

Background

The Annual and Quarterly Report of Class I Motor Carriers of Passengers is a mandated reporting requirement applicable to certain motor carriers of passengers. Motor carriers (both interstate and intrastate) subject to the Federal Motor Carrier Safety Regulations are classified on the basis of their gross carrier operating revenues.[1] Class I passenger motor carriers are required to file with the Agency motor carrier quarterly and annual reports (Form MP–1) providing financial and operating data (see 49 U.S.C. 14123). Under the financial and operating statistics (F&OS) program, FMCSA collects balance sheet and income statement data along with information on tonnage, mileage, employees, transportation equipment, and related data. The Agency uses this information to assess the health of the industry and identify industry changes that could affect national transportation policy. The data also indicate company financial stability and operational characteristics. The data and information collected are made publicly available and used by FMCSA to determine a passenger carrier's compliance with the F&OS program requirements set forth in 49 CFR Part 1420.

The F&OS reporting regulations were formerly administered by the Interstate Commerce Commission. They were transferred to the U.S. Department of Transportation on January 1, 1996, by Section 103 of the ICC Termination Act of 1995 (ICCTA) (Pub. L. 104–88, 109 Stat. 803, December 29, 1995), now codified at 49 U.S.C. 14123. On September 30, 1998, the Secretary transferred the authority to administer the F&OS program to BTS (63 FR 52192). Effective September 29, 2004, the Secretary transferred this program responsibility from BTS and redelegated it to FMCSA (69 FR 51009, Aug. 17, 2004). FMCSA will publish a final rule that transfers and redesignates the F&OS program reporting requirements, currently at 49 CFR 1420, from BTS (now RITA) to FMCSA.

We particularly request comments on: (1) Whether the proposed collection of information is necessary for FMCSA to meet its goal of reducing commercial motor vehicle crashes, and the usefulness of the information with respect to this goal; (2) the accuracy of the estimated IC burden; (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 use of automated collection techniques and other information technologies) without reducing the quality of the collected information. The Agency will summarize and/or include your comments in the request for OMB approval of this IC.

Issued on: July 7, 2006.

David H. Hugel,

Acting Administrator.

[FR Doc. E6–11140 Filed 7–13–06; 8:45 am]

BILLING CODE 4910–EX–P

[1] For purposes of the Financial & Operating Statistics (F&OS) program, passenger carriers are classified into the following two groups: (1) Class I carriers are those having average annual gross transportation operating revenues (including interstate and intrastate) of $5 million or more from passenger motor carrier operations after applying the revenue deflator formula in the Note of 49 CFR 1420.3; (2) Class II passenger carriers are those having average annual gross transportation operating revenues (including interstate and intrastate) of less than $5 million from passenger motor carrier operations after applying the revenue deflator formula as shown in Note A of § 1420.3. Only Class I carriers of passengers are required to file Annual and Quarterly Report Form MP–1, but Class II passenger carriers must notify the Agency when there is a change in their classification or their revenues exceed the Class II limit.

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

Environmental Impact Statement: DesertXpress High Speed Train Between Victorville, CA and Las Vegas, NV

AGENCY: Federal Railroad Administration (FRA), U.S. Department of Transportation (DOT).

ACTION: Notice of Intent to prepare an Environmental Impact Statement.

SUMMARY: The FRA is issuing this notice to advise the public that an Environmental Impact Statement (EIS) will be prepared for the proposed DesertXpress high-speed train project. The project includes passenger stations, a maintenance facility, and a new railroad line along the I–15 corridor between Victorville, California and Las Vegas, Nevada. FRA is issuing this notice to solicit public and agency input into the development of the scope of the EIS and to advise the public that outreach activities conducted by the FRA will be considered in the preparation of the EIS. Federal cooperating agencies for the EIS are the Surface Transportation Board (STB), the Federal Highway Administration (FHWA) and the Bureau of Land Management (BLM). Alternatives to be evaluated and analyzed in the EIS include (1) take no action (No-Project or No-Build); and, (2) construction of a privately financed steel-wheel-on-steel-rail high-speed train, including a proposed station in Victorville and a station in Las Vegas, and a maintenance facility in Victorville. Several alternative routings would be considered in the EIS.

DATES: Three scoping meetings will be held during July of 2006. Scoping meetings will be advertised locally and are scheduled for the following cities on the dates indicated below:

- July 25, 2006, Las Vegas Nevada at The White House, 3260 Joe Brown Drive time 5–8 pm.
- July 26, 2006, Barstow, California at the Ramada Inn, 1571 E. Main Street, time 12—2 pm, and
- July 26, 2006, Victorville, California at the San Bernardino County Fairgrounds Building 3, time 5–8 pm.

Persons interested in providing comments on the scope of the EIS should do so by August 15, 2006. Comments can be sent to Mr. David Valenstein at the FRA address identified below.

FOR FURTHER INFORMATION CONTACT: Mr. David Valenstein, Environmental Program Manager, Office of Railroad Development, Federal Railroad Administration, 1120 Vermont Avenue, (Mail Stop 20), Washington, DC 20590, (telephone 202/ 493–6368). Information and documents regarding the environmental review process will be made available through the FRA's Web site: *http://www.fra.dot.gov* at Passenger Rail, Environment, Current Reviews, DesertXpress.

SUPPLEMENTARY INFORMATION: The FRA will prepare an Environmental Impact Statement (EIS) for the proposed DesertXpress high-speed train project. The FRA is an operating administration of the U.S. Department of Transportation and is primarily responsible for railroad safety

regulation. Federal cooperating agencies for the EIS are the Surface Transportation Board (STB), the Federal Highway Administration (FHWA) and the Bureau of Land Management (BLM). The BLM has approval authority over the use of public lands under their control. The FHWA has jurisdiction over the use and/or modification of land within the I–15 right of way. The STB has exclusive jurisdiction, pursuant to 49 U.S.C. 10501(b), over the construction, acquisition, operation and abandonment of rail lines, railroad rates and services and rail carrier consolidations and mergers. The construction and operation of the proposed DesertXpress high-speed train project is subject to STB's approval authority under 49 U.S.C. 10901. To the extent appropriate, the EIS will address environmental concerns raised by federal, state and local agencies during the EIS process.

Project Description: DesertXpress Enterprises, LLC (the project Applicant) proposes to construct and operate a privately financed interstate high-speed passenger train, with a proposed station in Victorville, California and a station in Las Vegas, Nevada, along a 200-mile corridor, within or adjacent to the I–15 freeway for about 170 miles and adjacent to existing railroad lines for about 30 miles.

The need for the project is directly related to the rapid increase in travel demand between Southern California and Las Vegas, coupled with the growth in population in the areas surrounding Victorville, Barstow, Primm and Las Vegas, which has resulted in substantial congestion along the I–15 freeway between Victorville and Las Vegas. Ridership is estimated to be 4.1 million round trips in the first full year of service. To accommodate this level of ridership, trains would operate from 6 a.m. to 10 p.m., daily, 365 days a year at 20 to 30 minute intervals during peak periods.

The project would involve construction of a fully grade-separated, dedicated double track passenger-only railroad along an approximately 200-mile corridor, from Victorville California to Las Vegas, Nevada. Where the railroad alignment would be within the I–15 freeway corridor, continuous concrete truck barriers, as well as American Railway Engineering and Maintenance of Way Association crash barriers at all supporting columns of bridges at freeway interchanges and overpasses would be provided. The project would include the construction of a passenger station, as well as maintenance, storage and operations facility in Victorville and one passenger station in Las Vegas.

The proposed Victorville Station would be located along the west side of I–15 between the two existing Stoddard Wells interchanges. The facilities directly associated with the Victorville station would occupy about 60 acres of land, and would have a parking capacity for up to 10,000 automobiles. Access to the Victorville station would be via the two existing Stoddard Wells Road Interchanges.

The Maintenance, Storage and Operations facility is proposed to be located in the City of Victorville on a site that lies within the Victorville Valley Economic Development Area. The facility would require approximately 50 acres and would include a fueling station, train washing facility, repair shop, parts storage, and operations center. It is estimated that approximately 400 employees would be based at this facility.

The Las Vegas passenger station would be located at one of three possible locations: (1) Near the south end of the Las Vegas Strip; (2) in the center section of the Strip; or (3) in downtown Las Vegas. A light maintenance, cleaning, and inspection facility would also be built near the Las Vegas station.

Alternatives: A No-Build alternative will be studied as the baseline for comparison with the proposed project. The No-Build Alternative represents the highway (I–15) and airport (McCarran) system physical characteristics and capacity as they exist at the time of the EIS (2006) with planned and funded improvements that will be in place at the time the project becomes operational. The project build alternatives have the same stations and maintenance facility. The railroad alignment between Victorville and Las Vegas can be divided into 6 distinct segments. Within the segments, several build alternatives are being considered as discussed below.

Segment 1: Victorville to Lenwood (south of Barstow, California): Alternative A would depart the Victorville Station in a south-westerly direction before turning north and generally following the existing BNSF Railway Company (BNSF) railroad corridor and Route 66 to a point just south of Barstow. Alternative B would depart the Victorville Station and head north generally following the west side of the I–15 corridor. The alignment would diverge from the I–15 corridor near Hodge Road and head northerly to a point just south of Barstow near the exiting BNSF railroad corridor. Alternative B would be approximately 6.8 miles shorter than Alternative A.

Segment 2: Lenwood (South of Barstow) to Yermo, California: From a point south of Barstow, the build alternative alignment would head north for about five miles, cross the Mojave River and turn east through the City of Barstow. Through Barstow the alignment would utilize an existing, but abandoned, former Atchison Topeka & Santa Fe railroad corridor along the north side of the Mojave River, for approximately three miles before reaching the vicinity of the I–15 / Old Highway 58 interchange on the eastside of Barstow. From this point the alignment would head east along the north side of I–15 corridor through the town of Yermo to a point just east of the agricultural inspection station on the I–15 Freeway.

Segment 3: Yermo to Mountain Pass: There are two alignment alternatives in this segment: Alternative A entirely within the median of the I–15 freeway; and Alternative B along the north side of the I–15 corridor.

Segment 4: Mountain Pass to Primm, Nevada: Alternative A would leave the I–15 freeway corridor and head south for approximately four miles before returning to the I–15 freeway corridor south of Primm. A portion of this alignment may encroach on the Mojave Desert Preserve, about one half mile south of the I–15 freeway. Alternative B would leave the I–15 freeway corridor and head north before returning to the I–15 freeway corridor south of Primm. A 4,000-foot long tunnel would be necessary for Alternative B.

Segment 5: Primm to Jean, Nevada: Alternative A would be entirely within the median of the I–15 freeway. Alternative B would continue along the east side of the I–15 freeway corridor between Primm and Jean.

Segment 6: Jean to Las Vegas, Nevada: There are three alternative alignments in this segment. Alternative A would continue in the median of the I–15 freeway into the Las Vegas passenger station. Alternative B would cross the I–15 freeway corridor from the east side to the west side and continue along the west side of the I–15 freeway corridor into the Las Vegas passenger station. Alternative C would diverge to the east and generally follow the existing Union Pacific railroad corridor into the Las Vegas passenger station. To reach the downtown Las Vegas passenger station Alternative A would leave the median of the I–15 freeway corridor near Oakey Boulevard and diverge to the east to follow the Union Pacific railroad corridor to Bonneville Street. Alternatives B and C would follow the

west side of the I–15 freeway corridor and cross at Oakey Boulevard to the east to join the Union Pacific railroad corridor to Bonneville Street.

Scoping and Comments: FRA encourages broad participation in the EIS process during scoping and review of the resulting environmental documents. Comments and suggestions are invited from all interested agencies and the public at large to insure the full range of issues related to the proposed action and all reasonable alternatives are addressed and all significant issues are identified. In particular, FRA is interested in determining whether there are areas of environmental concern where there might be the potential for identifiable significant impacts. FRA invites and welcomes public agencies, communities and members of the public to advise the FRA of their environmental concerns, and to comment on the scope and content of the environmental information regarding the proposed project. Persons interested in providing comments on the scope of the EIS should send them to Mr. David Valenstein at the FRA address identified above by August 15, 2006.

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

Mark E. Yachmetz,

Associate Administrator for Railroad Development.

[FR Doc. E6–11154 Filed 7–13–06; 8:45 am]

BILLING CODE 4910–06–P

DEPARTMENT OF TRANSPORTATION

Federal Transit Administration

[Docket Number: FTA–2005–23227]

Notice of Proposed Title VI Circular

AGENCY: Federal Transit Administration (FTA), DOT.

ACTION: Notice of proposed revisions and request for comment.

SUMMARY: The Federal Transit Administration (FTA) is revising and updating its Circular 4702.1, "Title VI Program Guidelines for Urban Mass Transit Administration Recipients." FTA is issuing a proposed Title VI Circular and seeks input from interested parties on this document. After consideration of the comments, FTA will issue a second **Federal Register** notice responding to comments received and noting any changes made to the Circular as a result of comments received. The proposed Circular is available in Docket Number: 23227 at *http://dms.dot.gov.*

DATES: Comments must be received by August 14, 2006. Late filed comments will be considered to the extent practicable.

ADDRESSES: You may submit comments identified by DOT DMS Docket Number FTA–05–23227 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: 202–493–2251; Mail: Docket Management Facility; U.S. Department of Transportation, 400 Seventh Street, SW., Nassif Building, 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.

Instructions: You must include the agency name (Federal Transit Administration) and the docket number (FTA–05–23227). You should submit two copies of your comments if you submit them by mail. If you wish to receive confirmation that FTA received your comments, you must include a self-addressed, stamped postcard. Note that all comments received will be posted without change to the Department's Docket Management System (DMS) website located at *http://dms.dot.gov.* This means that if your comment includes any personal identifying information, such information will be made available to users of DMS.

FOR FURTHER INFORMATION CONTACT: David Schneider, Office of Civil Rights, 400 Seventh Street, SW., Washington, DC, 20590, (202) 366–4018 or at *David.Schneider@fta.dot.gov.*

SUPPLEMENTARY INFORMATION:

Background

The authority for FTA's Title VI Circular derives from Title VI of the Civil Rights Act of 1964, 42 U.S.C. 2000d, *et seq,* which prohibits discrimination on the basis of race, color, or national origin in programs and activities receiving Federal financial assistance. Specifically, Section 601 of this Title provides that "no person in the United States shall, on the ground of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance," (42 U.S.C 2000d). Section 602 authorizes Federal agencies "to effectuate the provisions of [Section 601] * * * by issuing rules, regulations or orders of general applicability," (42 U.S.C. 2000d-1). The U.S. Department of Transportation (DOT), in an exercise of this authority, promulgated regulations, contained in 49 CFR Part 21 that effectuate the provisions of Section 601 and Title VI in general.

FTA Circular 4702.1, titled "Title VI Program Guidelines for Urban Mass Transit Administration Recipients," provides information on how FTA will enforce the Department of Transportation's Title VI regulations at 49 CFR Part 21. The Circular includes information, guidance, and instructions on the objectives of Title VI, information on specific grant programs covered by Title VI, a description of FTA data collection and reporting requirements, a summary of FTA Title VI compliance review procedures, a description of FTA process for implementing remedial and enforcement actions, information on how FTA will respond to Title VI complaints, and public information requirements. Circular 4702.1 was last updated on May 26, 1988.

The proposed circular would make reference to and in some instances would summarize the text of other FTA guidance, regulations, and other documents. Many of the documents referred to will undergo revision during the life of the proposed circular. In all cases, the most current guidance document, regulation, etc will supercede any preceding information provided. FTA reserves the right to make page changes to proposed and final circulars regarding updates to other provisions, without subjecting the entire circular to public comment.

Comments Related to Reporting Requirements: In addition to general comments concerning the draft Title VI Circular, FTA is seeking comments from its recipients and subrecipients concerning the costs and benefits associated with meeting the proposed Circular's guidance. Recipients and subrecipients are encouraged to comment on the number of hours and/or financial cost associated with implementing the Circular's guidance as well as the extent to which following the guidance will assist the recipient and subrecipient in achieving its organizational objectives.

I. Why is FTA revising its Title VI Circular?

The DOT Title VI regulations and FTA Circular 4702.1 attempt to transform the broad antidiscrimination ideals set forth in Section 601 of Title VI into reality. In the 18 years since FTA last revised its Title VI Circular, much of FTA's guidance has become outdated. Over those years, legislation, Executive Orders, and court cases have transformed transportation policy and affected Title VI rights and

responsibilities of recipients and beneficiaries. These laws, executive orders, DOT directives, and legal decisions include:

• The Intermodal Surface Transportation Equity Act (ISTEA), enacted in 1991; the Transportation Equity Act for the 21st Century (TEA–21), enacted in 1998; and the Safe Accountable, Flexible and Efficient Transportation Equity Act, a Legacy for Users (SAFETEA–LU), enacted in 2005. These reauthorizations created many programs and activities. While these new programs are bound by Title VI's prohibition on discrimination, Circular 4702.1 does not provide specific guidance that would help FTA recipients funded by these programs to comply with Title VI.

• Executive Order 12898, "Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations," (issued in 1994) and the DOT Order on Environmental Justice 5610.2 (enacted in 1997). This Executive Order clarified and reaffirmed Federal agencies' Title VI responsibilities and addressed the effects of Federally-funded activities on low-income populations. The Executive Order contains three fundamental principles: (1) To avoid, minimize, and mitigate disproportionately high and adverse human health and environmental impacts, including social and economic effects, on minority and low-income populations; (2) to ensure full and fair participation by all potentially affected communities in the agency's decision-making process and; (3) to prevent denial of, reduction in, or significant delay in the receipt of benefits by minority and low-income populations.

In 1997, DOT issued the U.S. DOT Order on Environmental Justice, which states that DOT will continually monitor its programs, policies, and activities to ensure that they conform with environmental justice provisions. The DOT Order applies to all policies, programs, and other activities that are undertaken, funded, or approved by FTA, including policy decisions, systems planning, metropolitan and statewide planning, project development and environmental review under the National Environmental Policy Act (NEPA), construction, and operations and maintenance. FTA recipients and subrecipients who perform these activities would benefit from guidance that describes how to administer programs and activities in a manner that is consistent with DOT Order 5610.2.

• Executive Order 13166, "Improving Access to Services for Persons with Limited English Proficiency" (issued in 2000) and the "Department of Transportation Policy Guidance Concerning Recipients' Responsibilities to Limited English Proficient Persons" (DOT LEP Guidance) issued in 2001 and revised and reissued in 2005 (See 70 FR 74087). Executive Order 13166 requires Federal agencies and their recipients and subrecipients to examine the services they provide, identify any need for services to those with limited English proficiency (LEP), and develop and implement a system to provide those services so that people with LEP can have meaningful access to them. The Executive Order is designed to reinforce and implement the prohibition against national origin discrimination of Title VI. Under the Executive Order, each recipient and subrecipient of Federal financial assistance must take reasonable steps to provide meaningful access for people with LEP.

In 2005, DOT issued policy guidance to clarify the responsibilities of recipients and subrecipients of Federal financial assistance from DOT and assist them in fulfilling their responsibilities to people with LEP. The guidance reiterates DOT's longstanding position that in order to avoid national origin discrimination, recipients and subrecipients must take reasonable steps to ensure that such people have meaningful access, free of charge, to their programs, services, and information. Circular 4702.1 already includes requirements for people with LEP, but falls short of the more nuanced and comprehensive instructions in the DOT LEP Guidance. The proposed circular will clarify the connection between language assistance and Title VI compliance.

• The Supreme Court ruling in *Alexander* v. *Sandoval,* 532 U.S. 275 (2001). In this decision, the Supreme Court noted that U.S. Department of Justice (DOJ) and DOT regulations proscribing activities that have a disparate impact on people or organizations based on race are valid. At the same time, the decision foreclosed a private right of action to enforce these regulations. As a result of this decision, individuals and organizations seeking redress from disparate impact discrimination under Title VI are limited to filing administrative complaints with the DOT and its modal administrations requesting that their recipients or subrecipients comply with disparate impact prohibitions. The result is that Sandoval increases the likelihood that DOT, its modal administrations, and its recipients and subrecipients will be subjected to administrative complaints.

In order to resolve such complaints, recipients of FTA funds and the general public would benefit from guidance clarifying what steps they should take to demonstrate that their programs, policies, and activities do not result in disparate impact on the basis of race, color, or national origin.

Additionally, FTA is revising the Title VI Circular to eliminate outdated nomenclature, such as references to FTA as the "Urban Mass Transit Administration" and to statutes such as the "Urban Mass Transit Act" and the "Federal Aid Urban System Program."

II. What Factors Informed FTA's Revisions to the Title VI Circular?

Before revising and updating the Title VI Circular, FTA took into consideration the following information:

DOT Title VI Regulations at 49 CFR Part 21

The primary objective of the Title VI Circular is to provide guidance and instructions to ensure that recipients of FTA funding comply with DOT Title VI regulations. To this end, FTA reviewed the regulations at 49 CFR part 21 for ambiguous or open-ended provisions. For example, 49 CFR 21.5(b)(7) states that " * * * even in the absence of prior discriminatory practice or usage, a recipient * * * is expected to take affirmative action to assure that no person is excluded from participation in or denied the benefits of the program or activity on the grounds of race, color, or national origin." However, neither the regulations nor the appendix specify what types of actions would meet the expectations of this provision. Likewise, the broader provision at 49 CFR 21.5(b)(2) that prohibits recipients from "utilizing criteria or methods of administration which have the effect of subjecting people to discrimination on the basis of their race, color, or national origin * * *" is silent on procedures that recipients should use to identify and guard against discriminatory effects. Recipients would benefit from clear expectations on how to respond even to the relatively narrow requirement at 49 CFR 21.9(b) that "* * * recipients should have available for the Secretary racial and ethnic data showing the extent to which members of minority groups are beneficiaries of programs receiving Federal financial assistance." The proposed circular would provide guidance and procedures for these provisions to assist compliance with the specific provisions in the DOT Title VI regulations.

Title VI Guidance External to the Department of Transportation

Prior to revising the Title VI Circular, FTA reviewed guidance from the DOJ's "Civil Rights Division Legal Manual on Title VI," the DOJ "Investigation Procedures Manual for the Investigation and Resolution of Complaints Alleging Violations of Title VI and Other Non-Discrimination Statutes," and the Council on Environmental Quality (CEQ)'s "Environmental Justice Guidance under the National Environmental Policy Act." The proposed Circular is consistent with the legal principles and procedures described in those manuals. The Circular's guidance on integrating Title VI and environmental justice analysis into recipients' NEPA documents is consistent with the CEQ guidance.

Concurrent Rulemaking Processes

FTA and the Federal Highway Administration (FHWA) are in the process of revising the planning regulations for State Departments of Transportation (State DOTs) and Metropolitan Planning Organizations (MPOs) at 23 CFR part 450. Since these regulations inform State DOTs and MPOs on how to comply with Title VI, the proposed Circular would suspend issuing detailed Title VI guidance for these recipients and subrecipients of FTA funding. FTA will provide more detailed guidance after the final planning regulations are issued in 2007.

Complaints and Lawsuits Generated Since the Circular's Last Revision

One of the objectives of the Title VI Circular is to provide guidance that, if implemented, would reduce the risk that grantees would be subjected to Title VI administrative complaints or to litigation. To this end, FTA reviewed past Title VI administrative complaints filed with FTA and Title VI lawsuits, including cases summarized in The Impact of Civil Rights Litigation Under Title VI and Related Laws on Transit Decision-Making (Transit Cooperative Research Program Legal Research Digest, June 7, 1997).

Title VI complaints filed with FTA since 1995 include allegations that:

- Recipients provided a lower level and quality of service to minority riders using recipients' bus services than to white riders using recipients' rail services;
- Service and fare changes implemented by recipients had adverse and disproportionate impacts on minority populations; and
- Recipients disproportionately sited disruptive or polluting facilities such as busways, rail lines, and bus depots in predominantly minority and low-income communities, and sited clean fuel vehicles and facilities in predominantly white or more affluent communities; and recipients did not offer people with LEP the opportunity for involvement in decision-making.

Title VI litigation filed against transit agencies or MPOs include allegations that:

- Recipients favored the construction of roads and highways over the provision of public bus transportation;
- Recipients required primarily minority passengers to pay toward the operation of the commuter rail system;
- Recipients increased fares and eliminated passes for bus riders who are predominantly minority and poor, while allocating funds to construct rail lines designed to serve a predominantly white and relatively affluent community; and
- Recipients funded transit service serving predominantly white and relatively affluent communities to a greater extent than transit service provided to predominantly minority and low-income communities.

FTA determined that administrative complaints and litigation were filed in response to how recipients had allocated or structured their service and fares. The proposed Circular would include nondiscrimination guidance on these matters.

Recommendations of the Government Accountability Office (GAO)

The proposed Circular would respond to the recommendations of a recent GAO report that analyzed how DOT and its recipients were providing language access to people with LEP. On November 2, 2005, GAO issued "Better Dissemination and Oversight of DOT's Guidance Could Lead to Improved Access for Limited English-Proficient Populations." GAO was charged with investigating: (1) The language access services that transit agencies and MPOs have provided, and the effects and costs of these services; (2) how DOT assists its grantees in providing language access services; and (3) how DOT monitors its grantees' provision of these services.

The GAO report recommended that the Secretary of DOT: (1) Ensure that DOT's revised LEP Guidance is distributed to all DOT grantees; (2) consider providing additional technical assistance to grantees in providing language access; and (3) more fully incorporate the revised guidance in current review processes, and establish consistent norms for what constitutes a language access deficiency.

In response to the report's third recommendation, the proposed Circular would reference the DOT LEP Guidance. It would instruct all recipients and subrecipients to follow the procedures in that document. Title VI compliance reviews conducted after the proposed Circular is issued will assess whether or not recipients and subrecipients have followed the DOT LEP Guidance.

Changes in Industry Practices Since the Circular's Last Revision

Prior to issuing the proposed Circular, FTA reviewed changes in industry practices since the Circular was last updated in 1988. FTA intends to ensure that recipients can comply with revised guidance using policies and procedures that are already incorporated into their business practices. The use of Geographic Information Systems (GIS) by transportation providers is an example of a recently-adopted industry practice that can assist recipients in complying with Title VI. According to the Transportation Cooperative Research Program Synthesis, GIS Options in Transit (Transit Cooperative Synthesis Project, December 2004), close to 80% of transit agencies surveyed used GIS technology in 2003. Agencies used GIS frequently for Title VI activities. Several provisions of the proposed Circular would allow a recipient or subrecipient to demonstrate compliance with Title VI by overlaying their services on a demographic map of their service area. Using these maps, recipients can determine if resources are distributed equitably to minority, low-income, and LEP populations.

FTA also reviewed changes in industry practices to ensure that administrative activities widely adopted since 1988 would not disparately impact groups based on race, color, or national origin. Changes in industry practice with Title VI implications include measures to promote transit security and the development of intelligent transportation systems (ITS). In recent years, transit agencies have increased their security preparedness. Transit agencies, in cooperation with and supported by FTA have conducted risk and vulnerability assessments, created emergency preparedness plans, implemented safety and security awareness programs designed to encourage the active participation of transit passengers and employees in maintaining a safe transit environment, and conducted employee education and training, among other important measures. In a few metropolitan regions, primarily in New York City, officials have begun random screenings of passengers entering transit systems.

FTA seeks to ensure that these and other security activities are carried out based on objective criteria and are implemented without regard to race, color, or national origin. The proposed Circular would recommend that recipients serving urbanized areas of 200,000 persons or greater establish system-wide service standards for transit security and ensure that they are implemented in a nondiscriminatory way.

In addition, ITS technology such as vehicle arrival information systems, automatic stop announcement systems, and electronic fare payment are being implemented by many transit providers and should also be provided without regard to race, color, or national origin. Other technology such as passenger counters and automatic vehicle locators can assist the recipient in ensuring that their level and quality of service is provided equitably. The proposed Circular would include provisions to ensure the equitable distribution of ITS and allow recipients to use ITS to comply with Title VI.

Results of FTA Title VI Oversight

The proposed Circular would incorporate lessons learned from triennial reviews and discretionary Title VI compliance reviews conducted over the past three years. FTA reviewed the results of its 25 discretionary compliance reviews of transit agencies, MPOs and State DOTs conducted since 2002. It also reviewed Title VI portions of triennial reviews conducted since 2002.

In these reviews, FTA found the greatest number of deficiencies in the following areas:

- Failure to submit Title VI information to FTA;
- Failure to develop internal procedures and guidelines for monitoring compliance with Title VI; and
- Failure to conduct level and quality of service monitoring.

In some cases, recipients failed because they found provisions in the existing Circular to be ambiguous or difficult to implement.

The proposed Circular would clarify what Title VI information should be reported to FTA. The final Circular would also include examples of effective compliance practices.

Public Comments to the Docket

The proposed Circular would incorporate comments received in response to FTA's notice and request for comments, published in the **Federal Register** on December 15, 2005 (70 FR 74422). In this notice, FTA sought input from interested parties on the existing Circular, including examples of problems with compliance, best practices for compliance, and proposals for changes.

To date FTA has received 24 comments on the notice from transit agencies, MPOs, State DOTs, trade associations, and individuals. Commenters expressed views on the following provisions of the existing Circular:

1. Objectives of the Title VI Circular

Four individuals or organizations commented on the objectives of the existing Circular, which are included in Chapter I of Circular 4702.1. One commenter stated that the revised Circular should include a more detailed discussion of Title VI and specify that the implementation and administration of Title VI is a prime organizational responsibility. This commenter stated that the revised Circular should clarify the distinction between Title VI and Title VII and that the Circular should discuss the importance of providing equitable customer service and how doing so positively impacts the achievement of a recipient's organizational objectives.

Another commenter stated that the Circular's objective of comparing transit services in minority versus nonminority communities insufficiently evaluates how a transit agency distributes its resources, and that transit resources should be distributed according to transit propensity—the likelihood of an area to utilize transit services. The commenter suggested that transit agencies be given the chance to explain the factors (such as car ownership, income, and density) that dictate how they distribute resources, and then compare the level and quality of services provided to minority and nonminority areas.

A third commenter stated that the existing Circular lacks sufficient procedural guidelines for implementing agencies.

Another commenter suggested that "zero car populations" should be allowed to benefit from FTA assistance.

In response to these comments, the proposed Circular would include a description of the Title VI regulations at 49 CFR Part 21. The proposed Circular would also provide more detailed procedural guidelines in both the "General Guidance" and "Program Specific Guidance" chapters relating to recipients' larger organizational objectives. It would allow recipients to describe how their resources are distributed on the basis of race-neutral factors such as population density and expressed need for transit services.

The proposed Circular would not specifically require recipients to provide benefits to "zero car populations." However, the Circular's guidance, once implemented, would help recipients ensure equitable service to predominantly minority, low-income, and LEP populations, i.e., insofar as these populations are disproportionately without vehicles, the Circular should help ensure that they are equitably served by grant recipients.

2. Definitions

Eight individuals or organizations commented on the list of defined terms in the existing Circular (Chapter I, Part 3 of Circular 4702.1). One commenter stated that the Circular's definition of "minority or minority group persons" was out of date, per the United States Census' new definition of race. Another commenter remarked that the race categories could lead a person to be counted twice, specifically in the categories of two or more races. Other commenters suggested that the Circular's definition of travel time be made consistent with the definition used by FTA under DOT's ADA regulations—pointing to terms in the "Definitions" section that were not included in the body of the Circular. Another commenter suggested new definitions for the terms "recipient" and "subrecipient."

Another commentator noted that the existing Circular does not define "discrimination" and suggested that revised definitions of discrimination be categorical (i.e., intentional and unintentional forms that result in disparate impact or inequitable treatment of organizational customers) and race neutral (i.e., show how an organization that focuses on delivering quality service to all customers consequently removes discriminatory impediments).

Several commenters stated that the existing Circular's definition of "minority transit route," which is defined as "a route that has at least ⅓ of its total route mileage in a Census tract or traffic analysis zone with a percentage of minority population greater than the percentage of the minority population in the transit service area" may not accurately reflect the demographics of the populations that use or are served by those routes. Commenters proposed modifying this definition to one based on the route's actual ridership or a more precise analysis of the areas served by the route.

In response to these comments, the proposed Circular would adopt a

definition of "minority persons" using the race categories as defined by the 2000 Census. Under the proposed circular's definition of "minority persons," some people may be counted twice; however, provided that the recipient analyzes all of its service area according to the new definition of "minority persons," the recipient should arrive at consistent results.

The proposed Circular would define only those terms and concepts that are included in the document's ensuing chapters. If a term is not included in the definitions section, recipients and subrecipients should rely on common usage or industry standards to define the term. For example, the existing Circular's definition of "travel time," which is used to evaluate the quality of a recipient's service to minority and non-minority areas, requires all recipients to calculate travel time using a riding speed of 25 mph. The new Circular would not provide a standard calculation for travel time, but would instead allow recipients to base this calculation on their knowledge of their system and local factors.

Likewise, the proposed Circular would not include a definition for "minority transit route." It would advise recipients to determine the effects of programs, policies, and activities on minority (and low-income) groups using demographic information in ridership surveys and the U.S. Census, as circumstances warrant. For example, a recipient that proposes fare increases on its bus and rail service might review the results of ridership surveys to determine whether minority or low-income people are disproportionately represented on any one mode of transit service. A recipient or subrecipient proposing to eliminate transit routes would examine ridership surveys, but also review Census information on the areas served by these routes to understand the demographics of the communities that would lose service. A recipient studying alternatives for constructing a new transit route would review Census data for the areas that would be served by the project and also those areas bisected by the project to better understand the benefits and burdens of the project for specific groups.

The proposed Circular would include a definition of "recipient," "subrecipient," and "discrimination" that are consistent with these terms as defined by statute.

3. Title VI Assurances

The existing Circular requires applicants, recipients, and subrecipients to submit a signed civil rights assurance and a signed DOT Title VI assurance that all records and other information required by the Circular have been and would be completed by the applicant, recipient, or subrecipient (Chapter III, Parts 2(d) and 2(e) of Circular 4702.1).

Two individuals or organizations commented on this provision. One commenter noted that since 1995, FTA has used one form that compiles all certifications and assurances of compliance with applicable Federal requirements and that this form is completed by grantees and submitted on an annual basis.

Another commenter suggested that FTA clarify that recipients submit a Title VI assurance each time there is a change in the recipient's leadership.

In response to these comments, the proposed Circular would allow applicants to submit the annual standard assurance form that compiles all certifications and assurances in lieu of submitting specific Title VI assurance forms. This annual submittal would ensure that an applicant's new leadership would certify compliance with Title VI as well as other FTA requirements.

4. Fixed Facility Impact Analysis

The existing Circular requires all applicants, recipients, and subrecipients to conduct a fixed facility impact analysis to assess the effects of construction projects on minority communities and specifies the information to be collected for this analysis. If this information has been prepared as part of an Environmental Assessment (EA) or Environmental Impact Statement (EIS), the applicant, recipient, or subrecipient should refer to the relevant information (Chapter III, Part 2(f) of Circular 4702.1).

Three individuals or organizations commented on this provision. One commenter recommended that FTA incorporate guidance that fixed facility impact analyses also be conducted for those construction projects subject to documented Categorical Exclusions under parts (b) and (d) of DOT NEPA regulations at 23 CFR 771.117. (This guidance was previously provided to the commenter during a prior Title VI compliance review.)

Another commenter suggested that recipients conduct fixed facility impact analyses for those construction projects not subject to an EA and EIS and that local communities be given the opportunity to verify or rebut information provided on these construction projects. The commenter also suggested that data requirements regarding fixed facilities may be different for passenger facilities compared to administrative and/or maintenance facilities and relevant reporting requirements should be tailored to the impact on the residents and transit providers.

A third commenter asked whether the existing Circular's references to an EA or EIS are equated to the physical environment or equated to environmental justice communities.

In response to these comments, the proposed Circular would clarify that recipients should assess the impacts to minority and low-income populations of construction projects subject to a Categorical Exclusion type (d) ("a documented categorical exclusion"), Environmental Assessment, or Environmental Impact Statement. Recipients may fulfill this requirement by including the steps described in the environmental justice analysis section of the proposed circular section in their NEPA process and documentation, and submitting the appropriate section of the Environmental Impact Statement, Environmental Assessment, or application for a Documented Categorical Exclusion to FTA.

The NEPA regulations at 23 CFR 771.117(d) state that, for certain projects, applicants shall submit documentation that demonstrates that criteria for these Categorical Exclusions are satisfied, and that significant environmental effects would not result. Examples of these projects, as cited in the regulations, include construction of new bus storage and maintenance facilities in areas used predominantly for industrial and transportation purposes, rehabilitation or reconstruction of existing rail and bus buildings where only minor amounts of additional land are required and there is not a substantial increase in the number of users, and construction of bus transfer facilities when located in a commercial area or other high activity center in which there is adequate street capacity for projected bus traffic. Under the proposed Circular, recipients planning these and other projects that fall within 23 CFR 771.117(d) would submit, as part of their documentation to receive a Categorical Exclusion, an assessment of the project's impacts on minority and low-income communities.

Under the proposed Circular, recipients and subrecipients would not be required to assess the impacts on minority and low-income communities of those construction projects listed at 23 CFR 771.117(c). These projects do not require any NEPA approvals by FTA. They include approval of utility installations along or across a transportation facility, the installation of noise barriers, landscaping, acquisition of scenic easements, and other projects

enumerated in this provision of the NEPA regulations.

Also under the proposed Circular, recipients and subrecipients would not be required to assess the impacts on minority and low-income populations of those construction projects that do not significantly change the use, design, scale, or footprint of the facility.

The proposed Circular would not establish different procedures for analyzing the effects on minority and low-income populations of passenger facilities compared to administrative and/or maintenance facilities, nor would the proposed Circular alter recipient's existing public participation obligations under NEPA.

5. Program Specific Reporting Requirements

The existing Circular provides program-specific requirements for applicants, recipients, and subrecipients that provide public transit service primarily in service areas with populations over 200,000, as well as for State DOTs and MPOs (Chapter III, of Circular 4702.1).

One organization commented on this framework. The organization suggested that FTA consider reduced reporting requirements for recipients/public transit service providers that have a significant minority population. The commenter also recommended that FTA reduce the data collection and reporting burden on public transit service providers that they determine to be "low risk."

The proposed Circular would not take the approach suggested in this comment. Recipients serving areas with significant minority populations could be more sensitive to issues of discrimination on the basis of race, color, and national origin, and, therefore, less likely to violate Title VI, but the results of triennial reviews and Title VI compliance reviews conducted since 2002 demonstrate no relationship between the size or proportion of a recipient's minority population and the number of Title VI deficiencies found.

6. Demographic and Service Profile Maps, Overlays, and Charts

The existing Circular requires transit providers serving areas with populations over 200,000 to prepare demographic and service profile maps, overlays, and charts detailing the recipient's service area and overlaying the transit service provided and the location of concentrations of minority people within the service area (Chapter III, Part 3(a)(1) of Circular 4702.1).

Two individuals or organizations commented on this provision. One commenter stated that the Circular's existing requirement to prepare a base map showing major activity centers or transit trip generators, such as the central business district, outlying high employment areas, schools, and hospitals, might not accurately capture other major activity centers. Stores and childcare facilities may also be appropriate to include as additional locales. The commenter also asked how paratransit availability and usage fit in to reporting requirements.

The second commenter suggested that in addition to preparing maps, overlays, and charts, recipients also should provide the following information: A comparison of the demographics of minority and nonminority riders using different modes, information on trip purposes by minority riders during peak and off-peak times, the percentage of system-wide trips taken by minority riders, the percentage of minority riders who are transit dependent and the overall percentage of system-wide trips made by people who are transit dependent, the percentage of system-wide trips made by bus versus rail, and a comparison of minority and nonminority opinions concerning system performance, overall satisfaction, willingness to recommend transit to others, product awareness, and value for fare paid.

In response to these comments, the proposed Circular would retain the requirement to map major activity centers and transit trip generators. However, the Circular specifies that this list should be locally determined and can include, but need not be limited to, the central business district, outlying high employment areas, schools, and hospitals.

The proposed Circular would also recommend that recipients who meet the program-specific threshold collect information on the race, color, national origin, and income, and travel pattern of its riders (consistent with the specific information requests proposed by the commenter). This information can be integrated into customer surveys routinely performed by transit agencies.

7. Service Standards and Policies

The existing Circular requires transit providers that serve areas with populations over 200,000 to establish system-wide service policies and standards related to Title VI (Chapter III, Part 3(a)(2) of Circular 47021.).

Three individuals or organizations commented on this provision. One commenter requested that the revised Circular provide guidance on how to develop service standards for transit access, vehicle assignment, and level of service for commuter rail, and clarify how to determine maximum load points for fixed route bus service. Another commenter stressed that recipients should be required to establish a service standard only for those transit amenities that are under the direct responsibility of the recipient. A third commenter suggested that some measure of transit affordability should be added to the indicators identified under service standards and policies.

In response, the proposed Circular's discussion of service standards and policies would provide guidance that would enable recipients operating commuter rail service to set system-wide standards for transit access and vehicle assignment. The revised guidance would discuss how recipients can determine maximum load points for vehicle load. The revised Circular would also specify that transit amenities not directly under the control of the recipient, such as bus stops and shelters that are established and maintained by a local municipality, would not be subject to a service standard by the recipient.

The proposed Circular would not include a service standard for transit affordability, but would not prevent recipients from setting such a standard if they consider it appropriate. For example, recipients could price their fares so that the total cost to the rider of using the system on a frequent basis does not exceed a certain percentage of the average household income in the service area. However, this standard could mean that recipients would need to raise and lower fares as new information about household income or expenses is published, and such a policy would likely collide with a recipient's other strategic, financial, or functional objectives.

The revised Circular would require recipients serving urbanized areas with populations of 200,000 or greater to identify and address, as appropriate, disproportionate and adverse impacts of proposed fare increases on minority and low-income people and attempt to minimize or mitigate the effects of proposals by which price-sensitive consumers would bear the brunt of a fare increase.

8. Assessment of Compliance by Grantees

The existing Circular requires that transit systems serving areas with populations over 200,000 develop procedures and guidelines for monitoring compliance with Title VI. (Chapter III Part 3(a)(3) of Circular 4702.1).

One organization commented on this provision. The commenter recommended that transit providers be instructed to undertake Title VI compliance assessments on an ongoing basis as policies change, so that transportation providers assess policies as they are being developed, and well in advance of implementation. The commenter also noted that the existing Circular provides no threshold definition for a system-wide service change or a disproportionate impact. Transportation properties would benefit from specific guidelines about thresholds.

In response to this comment, the proposed Circular would ask recipients to evaluate significant system-wide service and fare changes and proposed improvements at the planning and programming stages to determine whether the overall benefits and costs of such changes are distributed equally, and are not discriminatory. In addition, the environmental justice analysis of construction projects requested by the proposed Circular and typically prepared as part of the NEPA process would be prepared and submitted to FTA well in advance of project construction.

The proposed Circular would not set a single threshold for the magnitude of a service change that would trigger recipients to study the impacts of the change. However, it would advise recipients to establish guidelines or thresholds for what they consider a "major" change to be. Often, this is defined as a numerical standard, such as a change that impacts 25% of the service hours of a route.

9. Information Dissemination

The existing Circular requires transit systems that serve areas with populations over 200,000 to describe the methods used to inform minority communities of service changes related to transit service and improvements (Chapter III, Part 3(a)(4)(b) of Circular 4702.1).

Two individuals or organizations commented on this provision. One commenter remarked that transportation properties would benefit from hearing from other transportation properties that employ non-traditional methods to engage communities of color in the decision-making process. The second commenter remarked that the existing Circular establishes no set thresholds for information dissemination.

In response to these comments, FTA will consider including in the final draft of the Title VI Circular a list of effective practices used by recipients to engage minority, low-income, and LEP populations in decision-making processes. The proposed Circular would also include examples of measures targeted to overcome linguistic, institutional, cultural, economic, historical, or other barriers that may prevent minority and low-income individuals and populations from effectively participating in a recipient's decision-making process.

The proposed Circular would not set a threshold for what type or magnitude of service changes would require the agency to disseminate information or involve the public (including minority, low-income, and LEP populations); however, the proposed Circular would cite examples of activities where public involvement is required or frequently conducted.

10. Minority Representation on Decision-Making Bodies

The existing Circular requires transit systems that serve areas with populations over 200,000 to provide a racial breakdown of transit-related non-elected boards, advisory councils, or committees, and to describe efforts made to encourage minority participation (See Chapter III, Part 3(a)(4)(c) of Circular 4702.1).

Three individuals or organizations commented on this provision. One commenter stated that the existing Circular does not ask whether the racial composition of non-elected boards, advisory councils, or committees benefits minority and low-income committees. A second commenter stated that racial diversity among board members does not guarantee representation of an affected communities' issues. The commenter suggested that transportation properties might provide information regarding each members' networks and relationships with affiliated communities. A third commenter suggested that FTA establish a threshold for representation on boards. For example, if a minority population represents 51% of the customer base, then a member of this population should be allocated a board seat.

The proposed Circular would not set quotas for membership on recipients' boards, advisory councils, or committees because the process for selecting members to these committees is a local prerogative. The proposed Circular would also contain general guidance on the obligations of State DOTs and MPOs to engage minority and low-income communities in the planning process. FTA remains interested in efforts undertaken by recipients to encourage minority participation on its boards, advisory councils, and committees. FTA's Equal Employment Opportunity Circular, which is currently being revised and updated, may consider guidance on this provision.

11. Multilingual Facilities

The existing Circular requires transit systems that serve areas with populations over 200,000 to provide a description of the extent to which bilingual speakers or materials are or would be used to assist non-English speaking people who want to use the transit system (See Chapter III, Part 3(a)(4)(d) of Circular 4702.1).

Four individuals or organizations commented on this provision. All commenters stated that the DOT LEP Guidance should be incorporated into the revised Circular. One commenter also suggested that the revised Circular include strategies to overcome cultural barriers related to LEP.

In response to these comments, the proposed Circular would request that all recipients and subrecipients follow the instructions in the DOT LEP guidance. The proposed Circular would also include examples of measures to overcome institutional, cultural, economic, historical, or other barriers that may prevent LEP populations from participating in a recipient's public involvement process. FTA will consider including in the final draft of the Circular a list of effective practices used by recipients to address cultural barriers related to LEP.

12. Requirements for Metropolitan Planning Organizations

The existing Circular requires MPOs to undertake data collection and reporting requirements to ensure compliance with Title VI (Chapter III, Part 3(b) of Circular 4702.1).

Two individuals or organizations commented on this provision. One commenter suggested that the MPO provisions of the existing Circular be reviewed. A second commenter stated that it would be helpful to have guidance on what the Executive Order on Environmental Justice requires from the MPO planning process. The Circular could provide useful guidance on effective methodologies, the frequency and means of analysis, and the reporting principles required of grantees for the triennial Title VI reports.

FTA intends to work with the Federal Highway Administration (FHWA) to issue more specific guidance on the incorporation of Title VI and environmental justice principles into the metropolitan and statewide planning processes after FHWA has issued revisions to its planning

regulations at 23 CFR 450 (the rulemaking process for these regulations is currently underway and DOT expects to issue a final rule in 2007). In order to avoid conflicts between the guidance for MPOs in the revised Circular and in the revised planning rule, the proposed Circular would issue general interim guidance on how MPOs should comply with Title VI.

13. Requirements for State DOTs

The existing Circular contains program-specific requirements for State agencies administering transit programs for elderly individuals, individuals with disabilities, and individuals living in rural and small urban areas. State agencies are required to ensure that their subrecipients are in compliance with Title VI requirements and demonstrate that subrecipients were selected for funding in a non-discriminatory manner (Chapter III, Part 3(c) and 3(d) of Circular 4702.1).

Two individuals or organizations commented on these provisions. One commenter asked whether transit activities administered by State DOTs and funded with monies transferred from the FHWA will be subject to Title VI requirements. The commenter also noted that the existing Circular does not cover programs funded through the Job Access Reverse Commute grant program or the New Freedom grant program.

The second commenter recommended that FTA consider providing conditional approvals for Title VI submissions from State DOTs while these submissions are being reviewed and approved by the FHWA. The commenter also suggested that FTA and FHWA work together to assist State DOTs to eliminate the problem of having FTA suspend a grant while FHWA reviews the recipient's Title VI submission.

In response to these comments, the proposed Circular would clarify that any recipient or subrecipient of funds administered by FTA shall comply with the Title VI guidance contained in this Circular. The proposed Circular would also require State DOTs to submit directly to FTA all Title VI information related to programs funded by FTA and administered by the State DOT (such as transportation grants for seniors and people with disabilities and grants for rural transportation). This information would no longer be reviewed and approved by a representative from FHWA.

The proposed Circular also would include general interim guidance for statewide planning. In order to avoid conflicts between the guidance in this area in the revised Circular and the revised planning rule, the proposed Circular issues general interim guidance on how the Statewide planning process should comply with Title VI.

14. Level and Quality of Service Monitoring

The existing Circular requires all grantees that provide public transit service to develop and implement procedures to monitor compliance with Title VI (Chapter IV Part (2) of Circular 4702.1).

Three individuals or organizations commented on this provision. One commenter noted that any level and quality of service methodology should analyze a numerically sufficient and demographically different number of Census tracts or traffic analysis zones. Monitoring procedures that require recipients to compare travel times from different areas to frequently traveled destinations should not identify solely those travel destinations used for work-related purposes.

A second commenter suggested that FTA provide templates, samples, or models to assist recipients with a consistent way to report information such as monitoring levels and quality of service and compliance assessment.

In response to these comments, the proposed Circular would request that recipients subject to level and quality of service monitoring identify the most frequently traveled destinations for riders using the recipient's service and, for each of these destinations, compare the average peak hour travel time to destination, average non-peak hour travel time to destination, number of transfers required to reach the destination, total cost of trip to the destination, and cost per mile of trip to the destination for people beginning the trip in the selected Census tracts or traffic analysis zones. The most frequently traveled destinations could include, but need not be limited to, destinations that are work-related. The proposed Circular would also encourage recipients to conduct statistical tests for significance on the results of their level and quality of service monitoring.

In addition, FTA will consider including in the final draft of the Circular a list of effective practices used by recipients to monitor level and quality of service.

15. Compliance Reviews

Chapter V of the existing Circular describes how FTA monitors compliance of applicants, recipients, and subrecipients with Title VI. This chapter includes descriptions of the type of compliance reviews FTA will conduct. It also includes FTA's criteria and procedures to determine compliance with Title VI.

Three individuals or organizations commented on the provisions in this chapter. One commenter requested that FTA provide clear, specific guidance about the compliance review process, including information on types of reviews, remedial actions, and appeals. They recommended that flow charts would help illustrate FTA's expectations in these areas.

A second commenter stated that triennial reviews are too infrequent to monitor recipients' compliance with the Title VI Circular. The commenter also recommended that FTA complete a review of a recipient's process. Another commenter suggested that Title VI reviews should be conducted by staff from FTA regional offices, rather than by national consultants who are not familiar with local issues, cultures, or populations. The commenter suggested that if consultants are used, they should have experience with the program areas that they are reviewing. Consultants who specialize in transportation in large metropolitan areas should not conduct reviews of transit service provided to rural areas. The commenter additionally stated that compliance reviews should be conducted so that all State DOTs are reviewed periodically rather than having one State DOT reviewed multiple times, and FTA's investigative reports should also be subject to a specific timeline. The commenter also suggested that FTA provide examples of best practices from State DOT review forms for local providers.

In response to these comments, the proposed Circular would provide information on the criteria for selecting recipients and subrecipients for compliance reviews and the process recipients should follow to correct deficiencies identified in the reviews. The proposed Circular would provide information on remedial actions and appeals in its section on enforcement procedures.

FTA reiterates its flexibility to determine, on a case-by-case basis, whether a Title VI desk audit or on-site review is warranted; whether the review should be conducted via consultants, FTA regional staff, or headquarters staff; what recipients and subrecipients should be subject to a review; and the timing of the release of the draft and final reports. As such, the proposed Circular will not include specific procedures in these areas.

Nothing in this Circular would authorize FTA to alter the triennial review structure, which is mandated by Federal law. However, recipients may be subject to a discretionary Title VI

review in the years in between their triennial reviews.

16. Enforcement Procedures

Chapter VI of the existing Circular describes the procedures and requirements for initiating remedial actions in cases of noncompliance and probable noncompliance with Title VI and summarizes FTA's enforcement procedures when a grant applicant, recipient, or subrecipient refuses or fails to comply voluntarily with remedial measures.

Four individuals or organizations commented on the provisions in this chapter. One commenter questioned whether the guidance contained in the Title VI Circular is binding on recipients and requested that FTA clarify the existing and revised Circular's actual enforceability. The commenter also noted that clarity on the enforcement of the Title VI Circular is particularly critical in light of the Supreme Court's decision in *Alexander* v. *Sandoval*, which held that there is no private right of action to enforce the disparate impact regulations promulgated under Title VI. The commenter stated that the existing Circular's provisions relating to enforcement, oversight, or decisions made by the Secretary of Transportation do not appear to be followed with any regularity.

Other commenters suggested that FTA update its enforcement procedures so that applicants or recipients have 90 days to correct deficiencies, and stated that there should be more clearly defined procedures for identifying violations of Title VI compliance and taking preventive measures.

Another commenter suggested that FTA clarify whether the Secretary can disagree with the results of an enforcement hearing and what procedure would be followed under that scenario.

In response to these comments, the proposed Circular would clarify that FTA would view recipients or subrecipients' failure to comply with one or more portions of the Circular's guidance would be a failure to comply with DOT Title VI regulations. For example, the Title VI Regulations at 49 CFR 21.9(b) require recipients to have available for the Secretary racial and ethnic data showing the extent to which members of minority groups are beneficiaries of programs receiving Federal financial assistance. In order for recipients serving populations of 200,000 people or greater to fulfill the requirement at section 21.9(b), the Circular would instruct these recipients to prepare and submit demographic service maps and overlays and demographic information obtained from ridership surveys. If the recipient does not prepare and submit this information, it would be considered deficient in its compliance with 49 CFR 21.9(b) unless the recipient could provide FTA with an adequate justification.

FTA will consider a grantee to be non-compliant with the DOT Title VI regulations if, after an investigation of a recipient or subrecipients' practices, FTA determines that the entity has engaged in a pattern or practice of activities that have had the purpose or effect of denying people the benefits of, excluding them from participation in, or subjecting people to discrimination under the recipients' program or activity on the basis of race, color or national origin.

In addition, the proposed Circular would clarify the timelines that would be used for correcting deficiencies and implementing protective measures.

17. Complaint Procedures

Chapter VII of the existing Circular provides information on FTA procedures for filing complaints alleging discrimination on the basis of race, color, or national origin. Six individuals or organizations commented on the provisions of this chapter. One commenter remarked that recipients are not following the existing Circular's complaint procedures, and that the revised Circular should identify an appeals process that an aggrieved individual or complainant can follow.

A second commenter suggested that the complaint provisions be updated to better define the responsibility of State DOTs to process Title VI complaints. Another commenter suggested that FTA provide timely notification to a recipient who has been the subject of a complaint, and provide the recipient with a copy of the complaint so that it may respond. Another commenter noted that there is little public awareness of the Circular's policy that recipients must advertise its complaint procedures to the public.

Other commenters suggested that only those complaints with adequate information should be accepted for investigation, and FTA should clarify the amount of time allowed between FTA's acceptance of a complaint and the submission of the investigative report. Another commenter stated that the revised Circular should require recipients to designate a Title VI coordinator to respond to complaints, conduct training, perform internal compliance reviews, and handle administrative tasks. Further, the commenter suggested that Title VI complaints should be regarded as violations in the quality of service that programs, activities, or services give to customers who are internal or external to the organization.

Because the proposed Circular is intended to be used by FTA grantees, the Circular's chapter on complaint procedures focuses on how FTA will interact with a recipient or subrecipient that has been subject to a Title VI complaint. FTA will engage in a separate effort to inform the public of its procedures for accepting and investigating Title VI complaints.

The procedures in the proposed Circular would specify an appeals process, provide timely notice to complainants and recipients that FTA has accepted a complaint for investigation, and would allow recipients to receive a copy of the complaint, unless the complainant wishes FTA to withhold specific information from the recipient.

Because Title VI complaints vary widely in their complexity and the length of time required to complete a thorough investigation, the proposed Circular would not include a specific timeframe for resolving all complaints. However, FTA is required by 49 CFR 21.11 to make a prompt investigation whenever information suggests a possible failure to comply with the regulations. The proposed circular would state that FTA strives to complete its investigation of complaints (either through administrative close or by issuing letters of resolution or finding) within 180 days of the date that FTA accepts a complaint for investigation.

Comments related to notifying the public of their right to file a Title VI complaint are addressed in the "General Reporting Requirements" in Chapter IV of the proposed Circular.

18. Miscellaneous Comments

In addition to commenting on specific provisions of the existing Title VI Circular, commenters expressed opinions on the following matters related to Title VI:

A. Environmental Justice

Five individuals or organizations commented on the relationship between Title VI and the Executive Order and DOT Order on Environmental Justice. All commenters recommended that FTA integrate environmental justice principles and requirements into the revised Circular. In response to these comments, the proposed Circular would contain guidance and procedures that recipients and subrecipients are required to follow to identify and address adverse and disproportionate

impacts of their programs, policies, and activities on minority and low-income populations within their jurisdictions.

B. Reporting Requirements

Five individuals or organizations commented on the reporting requirements of the Title VI Circular. One commenter urged that FTA make a concerted effort to minimize the record keeping and reporting burdens associated with its Title VI requirements, and that FTA seek to avoid redundancy within specific requirements as well as between Title VI and other oversight programs. FTA's Title VI requirements for transit agencies should dovetail with State-mandated recordkeeping and reporting requirements.

Another commenter noted that the updated Circular should incorporate changes with the Paperwork Reduction Act of 1995. Another commenter suggested that the Title VI reporting cycle should be moved to a four-year cycle to be consistent with the MPO cycle specified under SAFETEA–LU. A third commenter asked whether recipients' triennial Title VI submissions are due three years after the earlier submission date or three years after the date the previous plan was approved.

Commenters also requested that FTA provide training and technical assistance to help recipients complete the reporting requirements and provide guidance on how to respond to the Title VI questions in the triennial review.

The proposed Circular would reduce record keeping and reporting requirements by allowing recipients to submit the standard annual certification and assurance in lieu of separate FTA and DOT Title VI assurances. It would eliminate the existing Circular's requirement that recipients provide FTA with a list of existing and pending grant applications. Recipients and subrecipients could collect Census data on the demographics of households affected by construction projects in lieu of submitting a detailed list of minority households and businesses (per the fixed facility impact analysis requirement of the existing Circular). The Circular would eliminate the redundant requirements in the provision to provide an assessment of Title VI compliance by grantees (in Chapter III Part 3(a)(3) of Circular 4702.1). It would require that recipients include in their triennial Title VI reports to FTA only information that has changed or been updated since the prior submittal (the proposed Circular would also clarify that these submittals are due three years after the due date of the previous submittal). Additional changes to reporting requirements will be considered pursuant to comments received in this comment period.

The proposed Circular would not convert the Title VI reporting requirements to a four-year cycle because FTA has an interest in coordinating recipients' Title VI submittals with its triennial review process.

FTA will consider including in the final draft of the Circular a list of effective practices used to assist recipients in responding to the reporting requirements, as well as a list of people to contact for technical assistance.

In addition, those grantees that are allowed to use a portion of the funds that they receive from FTA for planning and administrative purposes can use these funds to support their Title VI monitoring and reporting activities.

C. The Process for Revising the Title VI Circular

Three individuals or organizations commented on the process of revising the Title VI Circular. One commenter suggested that FTA undertake a 60-day comment period to allow interested parties to review the draft Circular and that FTA engage compliance officers from a broad swath of the industry in tailoring requirements. Other commenters stated that FTA should seek public input on the draft circulars and address the concerns and needs of transit providers that use this guidance.

This notice begins a 60-day comment period on the draft circular. During this comment period. FTA will make a concerted effort to notify stakeholders of the opportunity to comment on the draft document.

D. Comments Unrelated to the Notice and Request for Comment

FTA received comments concerning the relative lack of attention and resources devoted by FTA's Office of Civil Rights to Title VI, compared to the Americans with Disabilities Act of 1990. It also received comments related to information posted on its Title VI website and to recent power point presentations made on Title VI. FTA regards all civil rights as important and strives to allocate resources accordingly. This notice does not provide a specific response to these comments as they are outside the scope of the December 15, 2005 notice and request for comment.

Issued on July 10, 2006.

Sandra K. Bushue,

Deputy Administrator.

[FR Doc. E6–11071 Filed 7–13–06; 8:45 am]

BILLING CODE 4910–57–P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Finance Docket No. 34844; STB Finance Docket No. 34890]

Pyco Industries, Inc.—Feeder Line Acquisition—South Plains Switching, Ltd. Co.; Pyco Industries, Inc.—Feeder Line Application—Lines Of South Plains Switching, Ltd. Co.[1]

In a decision in STB Finance Docket No. 34844 served on June 2, 2006, the Director of the Office of Proceedings (the Director) rejected as incomplete the application of PYCO Industries, Inc. (PYCO), under the feeder line provisions of 49 U.S.C. 10907 and 49 CFR part 1151, to acquire all of the rail lines of South Plains Switching, Ltd. Co. (SAW), in Lubbock, TX (the "All-SAW option"). The Director also rejected as incomplete PYCO's alternative request to acquire a portion of SAW's rail lines to allow PYCO to provide rail service to itself and to two other shippers located in close proximity to one of PYCO's two plants in Lubbock, TX ("Alternative Two").[2] The rejections were without prejudice to PYCO's filing a new application.

Track 5, SAW yard, (continued * * *) (* * * continued)	2,400 feet;
Track 1, SAW yard,	2,100 feet;
Track 9200,	3,900 feet;
Track 9298, east of BNSF main,	4,320 feet;
Track lead to PYCO plant 2 to 50th St.,.	6,280 feet;
Track 231 lead to 9200/9298,	960 feet;
Track 310 through Farmers 1,	5,600 feet
Total:	25,560 feet

In addition, PYCO seeks to acquire all of Track No. 6 from the western end of SAW yard to the western clearpoint of the easternmost switch of the "wye" track connecting to Track No. 6 from the south, and also the western branch of said "wye" from its southern clearpoint north to and including its connection with Track No. 6, estimated to be 1,100 feet. Also, PYCO would acquire a crossing right as follows: Crossing right Track 9298 to and through SAW yard, 5,000 feet.

On June 12, 2006, PYCO appealed the Director's decision and petitioned to

[1] These proceedings are not consolidated. A single decision is being issued for administrative convenience. For the same reason, the Board, rather than the Director of the Office of Proceedings, is deciding whether to accept or reject the new feeder line application submitted in STB Finance Docket No. 34890.

[2] PYCO describes the rail lines it seeks to acquire under Alternative Two as follows: (See reference above.)

amend its original application with newly tendered evidence. SAW opposed both the appeal and the petition to amend in pleadings filed on June 22 and June 28, 2006, respectively.

In STB Finance Docket No. 34890, filed on June 14, 2006, PYCO has submitted a new feeder line application for Alternative Two, renewed its earlier request for issuance of a protective order, and indicated that it wishes to propound discovery requests tendered with its original application.[3] SAW moved to reject the new feeder line application in a pleading filed on July 3, 2006.

We will deny the appeal of the Director's rejection of the original feeder line application in STB Finance Docket No. 34844; accept the new feeder line application for Alternative Two in STB Finance Docket No.34890, authorize discovery, and set a procedural schedule; and deny SAW's motion to reject the new feeder line application.

Background

In 1999, SAW acquired approximately 14.1 miles of rail lines in Lubbock, TX, from The Burlington Northern and Santa Fe Railway Company (BNSF).[4] PYCO, whose rail service was provided only by SAW, experienced a substantial, measurable deterioration in SAW's service in 2005. This led us to issue, under 49 U.S.C. 11123 and 49 CFR part 1146, an alternative service order authorizing West Texas & Lubbock Railway Company, Inc. (WTL), to provide service to PYCO, over SAW's lines, for an initial period of 30 days. *PYCO Industries, Inc.—Alernative Rail Service—South Plains Switching, Ltd. Co.*, STB Finance Docket No. 34802 (STB served Jan. 26, 2006). In two subsequent decisions, we extended the authorization for alternative service to the full 270 days permitted by the statute, through October 23, 2006.[5] During the period of alternative service, SAW has continued to provide rail service to the other shippers on its lines.

Seeking a permanent solution to the inadequate rail service it experienced from SAW, PYCO filed a feeder line application in May 2006. The Director found that the application was incomplete for both the All-SAW option and Alternative Two because PYCO had not made a sufficient showing as to all of the required elements of a feeder line application (set forth at 49 CFR 1151.3(a)), and some of these deficiencies would not have been cured by obtaining discovery of information in SAW's possession.

Discussion and Conclusions

[STB Finance Docket No. 34844]

I. Appeal of Rejection of PYCO's Original Application.

PYCO appeals the Director's decision rejecting its application as deficient.

A. *Inadequacy of SAW's Rail Service (49 CFR 1151.3(a)(11)).* The Director found that PYCO did not provide evidence required under 49 U.S.C. 10907(c)(1)(B) showing that the majority of shippers using SAW's lines experienced inadequate service from SAW. PYCO argues that its application met that requirement by showing that service was inadequate for a majority of the *shipments* on the line. PYCO also claims that other shippers were too intimidated to state that their rail service was inadequate for fear that SAW would retaliate by degrading or cutting off their rail service.

We do not find any error in the Director's interpretation of the statutory language of 49 U.S.C. 10907(c)(1)(B) as requiring evidence to support a finding that there is inadequate service for a majority of the line's *shippers*. We agree with the Director that the statutory language is clear and that to grant a feeder line application, the Board must make a finding that the owning carrier's service is inadequate for a majority of the line's *shippers*, not a majority of the *shipments* by volume. *See* discussion in the Director's order, slip op. at 6.

There is a fundamental problem with PYCO's argument that silence of a majority of the shippers should be excused because shippers may be reluctant to speak out for fear of retribution by SAW. The other shippers' silence can just as well be read to indicate that they are satisfied with the service that SAW is providing to them.

We contrast this application with another feeder line proceeding cited by SAW in its appeal, *Keokuk Junction Railway Company—Feeder Line Acquisition—Line of Toledo Peoria and Western Railway*, STB Finance Docket No. 34335 (STB served Oct. 28, 2004) (*Keokuk Junction*). In that case, the initial application included statements from five of the six shippers located on the line and five of ten "overhead" shippers (those not located on the line, but transporting shipments over the line) that the incumbent's rail service was inadequate. *See Keokuk Junction*, slip op. at 7 (describing the shipper statements included in the initial feeder line application). In contrast, here, the majority of the shippers on SAW's lines provided no statements at all.

In light of the silence from a majority of the lines' shippers, the Director correctly found that the original application did not provide evidence to permit the Board to find that the transportation over the line is adequate for the majority of shippers who transport traffic over the line, as required by statute and our own regulations at 49 CFR 1151.3(a)(11)(i)(B).

B. *Financial Responsibility (49 CFR 1151.3(a)(3)).* Citing an early decision in *Keokuk Junction* (STB served May 9, 2003), PYCO contends that the Director should have conditionally accepted its showing and afforded the opportunity to submit additional financial evidence under a protective order preserving confidentiality.

But the application in *Keokuk Junction* did not have the "fatal" deficiency in the evidence concerning adequacy of service to a majority of shippers, as discussed above. Given that deficiency, the Director correctly found that PYCO's request for issuance of a protective order was moot and that there was no basis for issuance of a procedural schedule.

Accordingly, PYCO has not met the standard for granting an appeal.

II. Petition To Allow Amendment of Feeder Line Application

Together with its appeal, PYCO petitioned to amend the original application, tendering additional evidence that could have been included in the original application. We will not permit PYCO to amend the original application with this evidence, but we will permit PYCO to submit the additional evidence in a new application and will incorporate by reference the information in its original application, as discussed below.

[STB Finance Docket No. 34890]

In its new feeder line application, PYCO seeks to acquire the rail lines described as Alternative Two in the original application and provides information to make the required showing. The new application also includes newly tendered evidence. This evidence and related issues will be discussed below.

I. Newly Tendered Evidence

A. *Financial Responsibility.* The newly tendered evidence[6] clearly

[3] The Director found that the rejection of PYCO's feeder line application rendered moot PYCO's requests for a protective order and a procedural schedule.

[4] BNSF has since changed its name to BNSF Railway Company. We will refer to both entities as BNSF.

[5] *See* decisions in STB Finance Docket No. 34802 served February 24, and June 21, 2006.

[6] The new evidence of financial responsibility consists of a letter from PYCO's Chief Financial

demonstrates that PYCO has sufficient financial resources, through its own strong financial position and an operating line of credit, to purchase the rail lines at issue at the higher of net liquidation value or going concern value and to cover expenses associated with providing services over those lines for at least 3 years. 49 U.S.C. 10907(a); 49 CFR 1151.3(a)(3).

B. *Inadequacy of Rail Service for a Majority of the Shippers.* There are currently three shippers on the portions of the lines comprising Alternative Two: PYCO, Farmers Cooperative Compress, and Attebury Grain, LLC. The revised application includes letters from the latter two shippers indicating that, in light of incidents in which SAW threatened retaliation against, and degraded service to, shippers that questioned the quality of SAW's service, both Farmers Compress and Attebury Grain consider SAW's service to them to be unreliable and inadequate.

SAW contends that service can be considered inadequate to a shipper only if the rail carrier either is unduly late, or fails altogether, in picking up or delivering a specific shipment as requested by that shipper. We disagree. A shipper's affirmative statement that it fears that it could suffer retaliation in the form of poor service for criticizing its rail service provider is sufficient in our view to constitute a showing of inadequate service to the shipper that makes the statement.[7]

When combined with PYCO's convincing statements of the inadequacy of the service it received from SAW (in the original application), the statements of Farmers Compress and Attebury Grain constitute credible evidence of the inadequacy of SAW's rail service for all of the shippers in Alternative Two. Thus, PYCO's new application is complete as to that alternative.

II. SAW's Renewed Motion to Reject Application for Alternative Two and Motion to Reject New Application[8]

In its opposition to PYCO's appeal, SAW renewed its earlier motion to reject the application for Alternative Two.[9] SAW argues that Alternative Two constitutes less than the entirety of a rail line that is operated as a unit, contrary to the language in the feeder line provision authorizing the sale of "a particular line of railroad," 49 U.S.C. 10907(b)(1)(A)(i). Citing *Caddo Antoine and Little Mo. R.R.* v. *United States*, 95 F.3d 740, 747 (8th Cir. 1996) (*Caddo Antoine*), SAW contends that a feeder line applicant may not "cherry pick" by seeking to acquire only the most attractive part of a rail line, while leaving the incumbent rail line owner with a remaining portion that allegedly cannot be operated successfully.

The *Caddo Antoine* decision is inapposite, however, because in that case it was the incumbent rail carrier that arguably sought to "cherry pick" the line's heaviest user. Initially in *Caddo Antoine*, the incumbent listed the entire rail line as subject to future abandonment—a listing that automatically subjects a line to potential acquisition under the feeder line provision at 49 U.S.C. 10907(b)(1)(A)(ii). *See Caddo Antoine*, 95 F.3d at 742. Preferring to retain the revenue from the line's heaviest shipper, however, the incumbent subsequently removed from that listing the very small portion of the line that was needed to serve that one shipper.

In contrast, PYCO, the heaviest user of SAW's rail services in the past, would like to purchase the entirety of SAW's lines and serve all of SAW's shippers, both large and small. It is only PYCO's inability to make the requisite showing that SAW's rail service is inadequate for a majority of the shippers on the entirety of SAW's rail lines that prevents the All-SAW application from going forward. SAW's claim that PYCO is "cherry picking" therefore falls flat. Rather, in Alternative Two, PYCO seeks to purchase the amount of rail lines necessary to assure adequate rail service to itself and to two other shippers located in close proximity to one of PYCO's two plants in Lubbock. Because we have no doubt that PYCO has demonstrated that SAW's rail service to PYCO was inadequate and has now shown the inadequacy of service to the other two shippers on the lines at issue in Alternative Two as well, its application for Alternative Two lawfully may go forward. For these reasons, we deny SAW's renewed motion to reject the application for Alternative Two.

In its motion to reject the new application for Alternative Two, SAW argues that PYCO's application does not have sufficient evidence to show that sale of the tracks comprising Alternative Two will not have a significant adverse financial effect on SAW. *See* 49 U.S.C. 10907(c)(1)(C). In the decision rejecting PYCO's original application, the Director found that, with regard to PYCO purchasing the tracks comprising Alternative Two, PYCO's showing was sufficient that the remainder of SAW's system would be viable both financially and operationally. We agree that PYCO has made a sufficient showing in this regard, which of course SAW is free to contest as the new application in STB Finance Docket No. 34890 goes forward. *See* PYCO's original application in STB Finance Docket No. 34844, at 38–39. For this reason, we will deny PYCO's motion to reject the new application.

III. Discovery

PYCO requests discovery against SAW and BNSF (Exhibits P and Q of its original application) and reserves the right to amend its tendered valuations of the rail lines involved in Alternative Two after discovery. PYCO may propound discovery requests under our regulations[10] and may amend its valuations to reflect the responses it receives from SAW and/or BNSF. A protective order issued separately should facilitate discovery responses by ensuring confidentiality. Because PYCO served its original application on the entities from which it seeks discovery, SAW and BNSF, we deem those discovery requests to be propounded as of the date this decision takes effect for the purpose of calculating the time for responses.

IV. Environmental Issues

Under the regulations of the President's Council on Environmental Quality and the Board's own environmental rules, actions are separated into three classes that prescribe the level of documentation required in the process under the National Environmental Protection Act (NEPA). As pertinent here, actions whose environmental effects are ordinarily insignificant may normally be excluded from the need to prepare environmental documentation under 40 CFR 1500.4(p), 1501.4(a)(2), 1508.4 and 49 CFR 1105.6(c). Included in this category are rail line acquisitions that will not result in operating changes that exceed certain thresholds: Generally, an increase in rail traffic of at least eight trains per day or 100% in traffic volume (measured in gross ton miles annually).

Here, because the acquisition would simply replace the rail carrier serving three shippers (PYCO, Farmers

Officer, a new letter from CoBank of Denver, CO, and PYCO's 2005 Annual Report.

[7] A shipper's affirmative statement is different from shipper silence, from which no inference can be made.

[8] SAW treated PYCO's new feeder line application as encompassing both the All-SAW option and Alternative Two. PYCO contends that the new application is complete only as to Alternative Two. *See* Cover Letter submitted with new application on June 14, 2006. Therefore, we will not further discuss SAW's arguments directed at rejection of the All-SAW option, which stands rejected.

[9] The motion was filed on May 16, 2006; PYCO submitted a reply on May 18, 2006.

[10] 49 CFR part 1114.

Compress, and Attebury Grain) with either PYCO itself or a rail carrier of PYCO's choosing, it would not result in more than eight additional trains per day or an increase of 100% in rail traffic volume on these lines. Accordingly, we find that PYCO's proposed operations do not exceed the Board's thresholds for environmental review, and that no environmental documentation is required.

V. Schedule

Our regulations set forth time periods that apply for submitting competing applications, verified statements and comments addressing feeder line applications and any competing applications, and replies, unless otherwise provided. In light of the expiration date for alternative rail service to PYCO, October 23, 2006, we shall provide a shortened schedule for the submission of these pleadings in this case, as set forth below. Although our regulations provide that extensions of filing dates may be granted for good cause, 49 CFR 1151.2(k), the parties should be aware that, to facilitate prompt resolution of this application, we will disfavor requests for extensions of filing dates in this proceeding except in the most extraordinary circumstances.

In summary, PYCO has submitted sufficient information in its new application for Alternative Two to meet the requirements of 49 CFR 1151.3. The Board will rule on the merits of the application when the record is complete.

It is ordered:

1. PYCO's appeal of the order rejecting its original application is denied.

2. SAW's renewed petition to reject the application for Alternative Two and motion to reject the new application are denied.

3. PYCO's new application for Alternative Two is accepted. Notice will be published in the **Federal Register** on July 14, 2006.

4. Competing applications by any person seeking to acquire the rail lines comprising Alternative Two must be filed by July 18, 2006.

5. Verified statements and comments addressing the initial and/or any competing application(s) must be filed by August 2, 2006.

6. Any amendment by PYCO to its valuation of the rail lines, based upon discovery responses, must be filed by 7 days after it receives the discovery responses. If the resulting filing date falls after the submission of the verified statements and comments in paragraph 5, the parties that filed such statements and comments shall have 7 days after the filing of the amended valuations to file any verified statements and comments concerning the amended valuations.

7. Verified replies by applicants and other interested parties must be filed by August 14, 2006, unless parties have filed any verified statements and comments concerning the amendment to valuations referred to in paragraph 6. In the event of such filings, applicants and other interested parties shall have 15 days after the filing of such verified statements and comments to file replies.

8. This decision is effective on July 14, 2006.

9. A copy of this decision will be served on BNSF.

Decided: July 3, 2006.

By the Board, Chairman Buttrey and Vice Chairman Mulvey.

Vernon A. Williams,

Secretary.

[FR Doc. E6–10831 Filed 7–13–06; 8:45 am]

BILLING CODE 4915–01–P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Docket No. AB–6 (Sub-No. 439X)]

BNSF Railway Company—Abandonment Exemption—in Bottineau County, ND

BNSF Railway Company (BNSF) has filed a notice of exemption under 49 CFR Part 1152 Subpart F—*Exempt Abandonments* to abandon approximately 11.90 miles of rail line, extending from milepost 40.10, near Bottineau, to milepost 52.00, near Souris, in Bottineau County, ND. The line traverses United States Postal Service Zip Codes 58783 and 58318.

BNSF has certified that: (1) No local traffic has moved over the line for at least 2 years; (2) there is no overhead traffic on the line to be rerouted; (3) no formal complaint filed by a user of rail service on the line (or by a state or local government entity acting on behalf of such user) regarding cessation of service over the line either is pending with the Surface Transportation Board or with any U.S. District Court or has been decided in favor of complainant within the 2-year period; and (4) the requirements at 49 CFR 1105.7 (environmental reports), 49 CFR 1105.8 (historic reports), 49 CFR 1105.11 (transmittal letter), 49 CFR 1105.12 (newspaper publication), and 49 CFR 1152.50(d)(1) (notice to governmental agencies) have been met.

As a condition to this exemption, any employee adversely affected by the abandonment shall be protected under *Oregon Short Line R. Co.—Abandonment—Goshen*, 360 I.C.C. 91 (1979). To address whether this condition adequately protects affected employees, a petition for partial revocation under 49 U.S.C. 10502(d) must be filed.

Provided no formal expression of intent to file an offer of financial assistance (OFA) has been received, this exemption will be effective on August 15, 2006, unless stayed pending reconsideration. Petitions to stay that do not involve environmental issues,[1] formal expressions of intent to file an OFA under 49 CFR 1152.27(c)(2),[2] and trail use/rail banking requests under 49 CFR 1152.29 must be filed by July 24, 2006. Petitions to reopen or requests for public use conditions under 49 CFR 1152.28 must be filed by August 3, 2006, with the Surface Transportation Board, 1925 K Street, NW., Washington, DC 20423–0001.

A copy of any petition filed with the Board should be sent to BNSF's representative: Sidney L. Strickland, Jr., Sidney Strickland and Associates, PLLC, 3050 K Street, NW., Suite 101, Washington, DC 20007.

If the verified notice contains false or misleading information, the exemption is void *ab initio*.

BNSF has filed a combined environmental and historic report which addresses the effects, if any, of the abandonment on the environment and historic resources. SEA will issue an environmental assessment (EA) by July 21, 2006. Interested persons may obtain a copy of the EA by writing to SEA (Room 500, Surface Transportation Board, Washington, DC 20423–0001) or by calling SEA, at (202) 565–1539. [Assistance for the hearing impaired is available through the Federal Information Relay Service (FIRS) at 1–800–877–8339.] Comments on environmental and historic preservation matters must be filed within 15 days after the EA becomes available to the public.

[1] The Board will grant a stay if an informed decision on environmental issues (whether raised by a party or by the Board's Section of Environmental Analysis (SEA) in its independent investigation) cannot be made before the exemption's effective date. *See Exemption of Out-of-Service Rail Lines*, 5 I.C.C.2d 377 (1989). Any request for a stay should be filed as soon as possible so that the Board may take appropriate action before the exemption's effective date.

[2] Each OFA must be accompanied by the filing fee, which was increased to $1,300 effective on April 19, 2006. *See Regulations Governing Fees for Services Performed in Connection with Licensing and Related Services—2006 Update*, STB Ex Parte No. 542 (Sub-No. 13) (STB served Mar. 20, 2006).

Environmental, historic preservation, public use, or trail use/rail banking conditions will be imposed, where appropriate, in a subsequent decision.

Pursuant to the provisions of 49 CFR 1152.29(e)(2), BNSF shall file a notice of consummation with the Board to signify that it has exercised the authority granted and fully abandoned the line. If consummation has not been effected by BNSF's filing of a notice of consummation by July 14, 2007, and there are no legal or regulatory barriers to consummation, the authority to abandon will automatically expire.

Board decisions and notices are available on our Web site at *http://www.stb.dot.gov*.

Decided: July 7, 2006.

By the Board, David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams,

Secretary.

[FR Doc. E6–11030 Filed 7–13–06; 8:45 am]

BILLING CODE 4915–01–P

DEPARTMENT OF THE TREASURY

United States Mint

Notification of American Eagle Gold Proof Coin Price Decrease

Summary: The recent drop in the price of gold requires that the United States Mint reduce the prices on its 2006 American Eagle Gold Proof Coins.

Pursuant to the authority that 31 U.S.C. 5112(i) and 5111(a)(3) grant the Secretary of the Treasury to mint and issue gold coins, and to prepare and distribute numismatic items, the United States Mint mints and issues American Eagle Gold Proof Coins in four denominations: One-ounce, one-half ounce, one-quarter ounce, one-tenth ounce, and a four-coin set that contains one coin of each denomination. In accordance with 31 U.S.C. 9701(b)(2)(B), the United States Mint is changing the price of these coins to reflect the decrease in value of the underlying precious metal content of the coins—the result of recent decreases in the market price of gold. Accordingly, effective July 12, 2006, the United States Mint will commence selling these gold proof coins according to the following price schedule: one-ounce gold proof coin (Sold Out), one-half ounce gold proof coin ($420.00), one-quarter ounce gold proof coin ($215.00), one-tenth ounce gold proof coin ($105.00), and four-coin gold proof set ($1,495.00).

For Further Information Contact: Gloria Eskridge, Associate Director for Sales and Marketing, United States Mint, 801 Ninth Street, NW., Washington, DC 20220; or call 202–354–7500.

Authority: 31 U.S.C. 5111, 5112 & 9701.

Dated: July 11, 2006.

David A. Lebryk,

Acting Director, United States Mint.

[FR Doc. E6–11096 Filed 7–13–06; 8:45 am]

BILLING CODE 4810–37–P

Federal Register

Friday,
July 14, 2006

Part II

Department of Agriculture

Federal Crop Insurance Corporation

7 CFR Part 457

Common Crop Insurance Regulations, Basic Provisions; and Various Crop Insurance Provisions; Proposed Rule

DEPARTMENT OF AGRICULTURE

Federal Crop Insurance Corporation

7 CFR Part 457

RIN 0563–AB96

Common Crop Insurance Regulations, Basic Provisions; and Various Crop Insurance Provisions

AGENCY: Federal Crop Insurance Corporation, USDA.

ACTION: Proposed rule with request for comments.

SUMMARY: The Federal Crop Insurance Corporation (FCIC) proposes to amend the Common Crop Insurance Regulations, Basic Provisions, Small Grains Crop Insurance Provisions, Cotton Crop Insurance Provisions, Coarse Grains Crop Insurance Provisions, Malting Barley Crop Insurance Provisions, Rice Crop Insurance Provisions, and Canola and Rapeseed Crop Insurance Provisions to provide revenue protection and yield protection. FCIC also proposes to amend the Common Crop Insurance Regulations, Basic Provisions to incorporate changes resulting from input and recommendations by the prevented planting work group. The amended provisions will replace the Crop Revenue Coverage (CRC), Income Protection (IP), Indexed Income Protection (IIP), and the Revenue Assurance (RA) plans of insurance. The intended effect of this action is to offer producers a choice of revenue protection (protection against loss of revenue caused by low prices, low yields or a combination of both) or yield protection (protection for production losses only) within one Basic Provisions and the applicable Crop Provisions to reduce the amount of information producers must read to determine the best risk management tool for their operation and to improve the prevented planting and other provisions to better meet the needs of insured producers. The changes will apply for the 2009 and succeeding crop years.

DATES: Written comments and opinions on this proposed rule will be accepted until close of business September 12, 2006 and will be considered when the rule is to be made final. Comments on information collection under the Paperwork Reduction Act of 1995 must be received on or before September 12, 2006.

ADDRESSES: Interested persons are invited to submit comments, titled "Combination Basic and Crop Provisions", by any of the following methods:

- By Mail to: Director, Product Administration and Standards Division, Risk Management Agency, United States Department of Agriculture, 6501 Beacon Drive, Stop 0812, Room 421, Kansas City, MO 64133–4676.
- E-Mail: *DirectorPDD@rma.usda.gov*.
- Federal eRulemaking Portal: *http://www.regulations.gov*. Follow the instructions for submitting comments.

A copy of each response will be available for public inspection and copying from 7 a.m. to 4:30 p.m., c.s.t., Monday through Friday, except holidays, at the above address.

FOR FURTHER INFORMATION CONTACT: For further information contact Louise Narber, Risk Management Specialist, Product Management, Product Administration and Standards Division, Risk Management Agency, at the Kansas City, MO, address listed above, telephone (816) 926–7730. For a copy of the Cost-Benefit Analysis, contact Leiann Nelson, Economist, at the office, address, and telephone number listed above.

SUPPLEMENTARY INFORMATION:

Executive Order 12866

This rule has been determined to be significant for the purposes of Executive Order 12866 and, therefore, it has been reviewed by the Office of Management and Budget (OMB).

Cost-Benefit Analysis

A Cost Benefit Analysis has been completed and is available at the Kansas City address listed above to interested persons. In summary, the analysis finds that changes in the rule will have positive potential benefits for producers and insurance providers. The PayGo impact of no longer providing revenue coverage for sunflowers is estimated at $36,814. This was calculated based on the lower rate from MPCI coverage, the higher administrative and operating subsidy percentage from MPCI coverage, a lower amount of premium subsidy paid due to the lower premium, and a small amount of lesser indemnity paid based on no losses due to the harvest price. The PayGo impact of changing the rapeseed price mechanism for revenue coverage is estimated at $5,233. This was calculated based on the lower rate from MPCI coverage, a lower amount of premium subsidy paid due to the lower premium, and a small amount of lesser indemnity paid. A misreporting information penalty was put into place in the 2005 crop year. This misreporting penalty was based on the APH yield and acres reported. The policy already held misreported acres and yields against the producer and when the misreporting factor was also applied to the indemnity, the penalty proved to be overly harsh. In addition, the penalty was difficult to determine and administer. The total indemnity withheld in 2005 due to the MIF penalty was slightly under $2.7 million and involved just over 608 thousand acres. RMA is recommending that the MIF penalty be removed from the policy based on the following facts: (1) Penalties against misreporting continue in the policy and acres and yields that are misreported are held against the indemnity; and (2) Fraud against crop insurance is punishable by law.

Combining yield protection (protection for production losses only) and revenue protection (protection against loss of revenue caused by low prices, low yields or a combination of both) within one Basic Provisions and the applicable Crop Provisions will minimize the quantity of documents needed to be included in the contract between the producer and the insurance provider. A producer benefits because he or she will not receive several copies of largely duplicative material as part of the insurance contracts for crops insured under different insurance plans. Approved insurance providers benefit because there is no need to maintain inventories of similar materials. Handling and mailing costs are reduced to the extent that duplication of Basic or Crop Provisions is eliminated. Benefits accrue due to avoided costs (resources employed for duplicative effort) which are intangible in nature. Certain avoided costs are the need to prepare and publish multiple copies of similar documents and the need to store and mail multiple copies of similar documents. These proposed changes will increase the efficiency of the approved insurance providers by eliminating the need to maintain and track separate forms and by eliminating the potential for providing an incorrect set of documents to an insured person by inadvertent error.

Revisions to the prevented planting provisions will clarify certain terms and conditions to reduce fraud, waste, and abuse. Also, the prevented planting payment amount will not exceed the payment level for the crop that is prevented from being planted. Current provisions allow payment based on another crop when there are no remaining eligible acres for the crop that is prevented from being planted. Payment is currently based on the other crop. Proposed provisions allow eligible acres for another crop to be used but limit the payment amount to that associated with the crop that was prevented from being planted.

CRC, RA, IP and IIP plans of insurance currently use a market-price discovery method to determine prices. This rule proposes to use this same method for determining prices used for crops with both revenue protection and yield protection. The benefits of this action primarily accrue to FCIC, which will no longer be required to make two estimates of the respective market price for these crops. Approved insurance providers benefit because they no longer will be required to process multiple releases of the expected market price for a crop year. Producers also benefit because the price at which they may insure the crops included under yield protection should more closely approximate the market value of any loss in yield that is subject to an indemnity. There are essentially no direct costs for this change since the market-price price discovery mechanism already exists and is in use for the insurance plans to be included in revenue protection. All required data are available and similar calculations are currently being made.

Sunflowers, which are currently eligible for revenue-based coverage, will no longer be eligible under the proposed changes. Very few crop policies of sunflowers earned premium in 2003. Removal of this crop from eligibility is appropriate because the mechanism for price discovery does not adequately reflect either market value or changes in the market valuation during the period between planting and harvest.

These changes will simplify administration of the crop insurance program, reduce the quantity of documents and electronic materials prepared and distributed, better define the terms of coverage, provide greater clarity, and reduce the potential for waste, fraud, and abuse.

Many of the benefits and costs associated with the proposed rule cannot be quantified. The qualitative assessment indicates that the benefits outweigh the costs of the regulation.

Paperwork Reduction Act of 1995

In accordance with section 3507(j) of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501), the information collection and recordkeeping requirements included in this rule have been submitted for approval to OMB. Please submit written comments to the Desk Officer for Agriculture, Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), Washington, DC 20503. A comment to OMB is best assured of having its full effect if OMB receives it within 30 days of publication of this rule.

Comments are being solicited from the public concerning this proposed information collection and recordkeeping requirements. This outside input will help:

(1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information has practical utility;

(2) Evaluate the accuracy of our estimate of the burden of the proposed collection of information, including the validity of the methodology and assumption 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 (such as through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission responses.)

Title: Common Crop Insurance Regulations, Basic Provisions; and Various Crop Insurance Provisions.

Abstract: The Federal Crop Insurance Corporation (FCIC) proposes to amend the Common Crop Insurance Regulations, Basic Provisions, Small Grains Crop Insurance Provisions, Cotton Crop Insurance Provisions, Coarse Grains Crop Insurance Provisions, Malting Barley Crop Insurance Provisions, Rice Crop Insurance Provisions, and Canola and Rapeseed Crop Insurance Provisions to provide revenue protection and yield protection. The amended provisions will replace the Crop Revenue Coverage (CRC), Income Protection (IP), Indexed Income Protection (IIP), and Revenue Assurance (RA) plans of insurance. The intended effect of this action is to offer producers a choice of revenue protection (protection against loss of revenue caused by low prices, low yield or a combination of both) or yield protection (protection for production losses only) within one Basic Provisions and the applicable Crop Provisions to reduce the amount of information producers must read to determine the best risk management tool for their operation and to improve the prevented planting and other provisions to better meet the needs of insured producers. (The burden hours for reading the various policies to determine the best risk management tool for the producer's farming operation were not included in the current information collection burden hours. Burden hours for reading insurance documents are now included in the revised information collection package.)

Purpose: To amend 7 CFR part 457.

Burden Statement: The information collection requirements are necessary for administering the crop insurance program. Producers are required to report specific data when they apply for crop insurance and report acreage, yields, and notices of loss. Insurance companies accept applications, issue policies, establish and provide insurance coverage, compute liability, premium, subsidies, and losses, indemnify producers, and report specific data to FCIC, as required. Insurance agents market crop insurance and service the producer. This data is used to administer the Federal crop insurance program in accordance with the Federal Crop Insurance Act, as amended.

Estimate of Burden: The public reporting burden for this collection of information is estimated to average 0.4 of an hour per response.

Respondents: Producers and insurance companies reinsured by FCIC.

Estimated Annual Number of Respondents: 1,248,281.

Estimated Annual Number of Responses Per Respondent: 3.6.

Estimated Annual Number of Responses: 4,551,705.

Estimated Total Annual Burden Hours on Respondents: 1,866,457.

Government Paperwork Elimination Act (GPEA) Compliance

FCIC is committed to compliance with the GPEA, which requires Government agencies, in general, to provide the public with the option of submitting information or transacting business electronically to the maximum extent possible. FCIC requires that all reinsured companies be in compliance with the Freedom to E-File Act and section 508 of the Rehabilitation Act.

Unfunded Mandates Reform Act of 1995

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA) establishes requirements for Federal agencies to assess the effects of their regulatory actions on State, local, and tribal governments and the private sector. This rule contains no Federal mandates (under the regulatory provisions of title II of the UMRA) for State, local, and tribal governments or the private sector. Therefore, this rule is not subject to the requirements of sections 202 and 205 of UMRA.

Executive Order 13132

It has been determined under section 1(a) of Executive Order 13132,

Federalism, that this rule does not have sufficient implications to warrant consultation with the States. The provisions contained in this rule will not have a substantial direct effect on States, or on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government.

Regulatory Flexibility Act

FCIC certifies that this regulation will not have a significant economic impact on a substantial number of small entities. Program requirements for the Federal crop insurance program are the same for all producers regardless of the size of their farming operation. For instance, all producers are required to submit an application and acreage report to establish their insurance guarantees and compute premium amounts, and all producers are required to submit a notice of loss and production information to determine the amount of an indemnity payment in the event of an insured cause of crop loss. Whether a producer has 10 acres or 1000 acres, there is no difference in the kind of information collected. To ensure crop insurance is available to small entities, the Federal Crop Insurance Act authorizes FCIC to waive collection of administrative fees from limited resource farmers. FCIC believes this waiver helps to ensure that small entities are given the same opportunities as large entities to manage their risks through the use of crop insurance. A Regulatory Flexibility Analysis has not been prepared since this regulation does not have an impact on small entities, and, therefore, this regulation is exempt from the provisions of the Regulatory Flexibility Act (5 U.S.C. 605).

Federal Assistance Program

This program is listed in the Catalog of Federal Domestic Assistance under No. 10.450.

Executive Order 12372

This program is not subject to the provisions of Executive Order 12372, which require intergovernmental consultation with State and local officials. See the Notice related to 7 CFR part 3015, subpart V, published at 48 FR 29115, June 24, 1983.

Executive Order 12988

This proposed rule has been reviewed in accordance with Executive Order 12988 on civil justice reform. The provisions of this rule will not have a retroactive effect. The provisions of this rule will preempt State and local laws to the extent such State and local laws are inconsistent herewith. With respect to any direct action taken by FCIC or to require the insurance provider to take specific action under the terms of the crop insurance policy, the administrative appeal provisions published at 7 CFR part 11 must be exhausted before any action against FCIC for judicial review may be brought.

Environmental Evaluation

This action is not expected to have a significant economic impact on the quality of the human environment, health, or safety. Therefore, neither an Environmental Assessment nor an Environmental Impact Statement is needed.

Background

1. History

a. APH

The Actual Production History (APH) plan of insurance was developed by FCIC and provides protection only against reductions in yield and prevented planting. Beginning with the 1985 crop year, FCIC offered an individual yield coverage plan that was based on the actual production of the producer. Previous to that crop year, coverage was based on an area yield. The individual yield coverage plan required 3 years of records, building to a maximum of 10 years.

In 1994, the Federal Crop Insurance Reform Act of 1994 legislated that insurance coverage be based on the producer's actual production history, with 4 years of records required to establish the initial APH and building to ten year historic yield record. Congress also mandated that producers without the requisite records would receive a transitional yield determined by FCIC until 4 years of records were reached.

Under the APH program, each year of APH history is added together and averaged to determine the approved yield for the unit. If the producer's production for a crop year for the unit was less than the guarantee (the amount determined by multiplying the approved yield by the coverage level), the producer was eligible for an indemnity payment. For each insured crop, the expected market price at the time of harvest was set by FCIC and announced by the contract change date, which usually predated harvest by at least six to nine months depending on the crop. FCIC eventually revised the policy to allow for the announcement of an additional price before the sales closing date to allow FCIC to obtain additional information to more accurately estimate the harvest price. However, for each insured crop, only one market price is used to establish whether an indemnity is owed, except for certain crop types that have separate market prices per type. The APH program does not provide coverage for any change in the market price.

b. CRC

The Federal Crop Insurance Reform Act of 1994 also created section 508(h) of the Federal Crop Insurance Act (Act), which allows a person to submit to the FCIC Board of Directors (Board) other crop insurance policies, provisions of policies or premium rates. If the Board finds that the interests of the producers are adequately protected and that any premiums charged to the producers are actuarially appropriate, the submission is approved by the Board for reinsurance and for sale by approved insurance providers to producers at actuarially appropriate rates and under appropriate terms and conditions.

American Agrisurance, Inc. (AmAg), the managing general agent for Redland Insurance Company (Redland), an approved insurance provider, developed and submitted their CRC policy to the Board under section 508(h) of the Act, requesting reinsurance, administrative and operating expense subsidy, and premium subsidy beginning with the 1996 crop year. The policy provided protection against reductions in yield and changes in market price that occur during the insurance period. Eventually AmAg became the managing general agent for American Growers Insurance Company (American Growers) and continued to maintain CRC. In 2002, American Growers failed and AmAg determined it could not continue to maintain CRC. In December 2002, in accordance with section 522(b)(4)(C) of the Act, AmAg transferred the responsibility for CRC to FCIC.

CRC built upon the APH plan of insurance by adding a price protection component that for the first time used the commodity exchanges, such as the Chicago Board of Trade, to establish the expected market price for the crop. Before the insurance period, the expected market price is established using futures contracts to determine the expected market price at the time of harvest. Toward the end of the insurance period, the futures contracts from the same commodity exchange are again used to determine the new expected market price at the time of harvest. In this manner, the expected market price at the time of harvest is calculated before the insurance period begins and again toward the end of the insurance period so that any change in the expected market price can be measured.

CRC protects against both increases and decreases in price. Before the insurance period, the market price is established using futures contracts to determine the expected market price at the time of harvest. Toward the end of the insurance period, futures contracts for the same commodity exchanges are used to establish a new market price at the time of harvest. This meant that if the expected market price decreased during the insurance period or the producer suffered a loss in yield, the producer would be indemnified if the change in combination of price and yield results in the value of the production to count being less than the value of the guarantee.

c. RA

In 1995, the Iowa Farm Bill Study Team proposed RA. The idea was further developed by the Iowa Farm Bureau Federation and Farm Bureau Mutual Insurance Company (Farm Bureau) at the request of the Iowa Farm Bureau membership. RA was eventually owned and administered by American Farm Bureau Insurance Services, Inc. RA was submitted to the Board under section 508(h) of the Act and was first approved by the Board for the 1997 crop year. RA provided coverage against loss of production and a decrease in price. RA was later modified to allow producers the option of receiving coverage for both an increase and decrease in price.

Farm Bureau continued to maintain RA through the 2004 crop year, the last year for which maintenance costs were reimbursable under section 522(b)(4)(B) of the Act. For the 2005 crop year, Farm Bureau transferred the responsibility for maintenance for RA to FCIC.

RA built upon the APH plan of insurance by adding a price protection component that also used the commodity exchanges, such as the Chicago Board of Trade, to establish the expected market price for the crop. Before the insurance period, the market price is established using futures contracts to determine the expected market price at the time of harvest. Toward the end of the insurance period, futures contracts for the same commodity exchange are used to establish a new market price at the time of harvest. When it was first introduced, it only protected against decreases in price. This meant that if the expected market price decreased during the insurance period or the producer suffered a loss in yield, the producer would be indemnified if the change in combination of price and yield results in the value of the production to count being less than the value of the guarantee. Eventually RA was revised to allow producers to elect to purchase an option that would provide coverage in case the expected market price increased during the insurance period.

d. IP

In the Federal Crop Insurance Reform Act of 1994, Congress enacted section 508(h)(6) of the Act, which authorized FCIC to provide coverage against a reduction in price or yield resulting from an insured cause. FCIC subsequently developed IP and made it available for the 1997 crop year.

IP built upon the APH plan of insurance by adding a price protection component that also used the commodity exchanges, such as the Chicago Board of Trade, to establish the expected market price for the crop. Before the insurance period, the expected market price is established using futures contracts to determine price at the time of harvest. Toward the end of the insurance period, futures contracts from the same commodity exchange are again used to determine a new expected market price. IP only protects against decreases in price. This meant that if the expected market price decreased during the insurance period or the producer suffered a loss in yield, the producer would be indemnified if the change in combination of price and yield results in the value of the production to count being less than the value of the guarantee.

e. IIP

Beginning with the 1999 crop year, an alternative version of IP, Indexed IP, was available on a limited basis. IIP is currently available for corn and soybeans. IIP is identical to regular IP with the exception of the method used to calculate the APH approved yield. If the producer has experienced several losses during the period during which the APH is calculated, the producer's approved yield averages are reduced and may not reflect the expected yield of the crop during normal growing conditions. Indexing producer yields alleviates this problem. The indexing process uses county data to moderate the effect of these successive loss years. The IIP yield is calculated by subtracting the average of the producer's reported yields at the enterprise unit level from the average of the county yields for the same years, and subtracting that difference from the county's expected yield for the current crop year. This pilot program may provide an improved yield guarantee for producers in areas that have experienced numerous significant losses in recent years.

2. Proposed Policy

FCIC proposes to amend the Common Crop Insurance Regulations; Basic Provisions, Small Grains Crop Insurance Provisions, Cotton Crop Insurance Provisions, Coarse Grains Crop Insurance Provisions, Malting Barley Crop Insurance, Rice Crop Insurance Provisions, and Canola and Rapeseed Crop Insurance Provisions to provide both revenue protection and yield protection. Barley, canola and rapeseed, corn, cotton, grain sorghum, rice, soybeans, sunflowers, and wheat are currently insured under at least one of the CRC, IP, IIP, and RA plans of insurance as well as under the APH plan of insurance.

FCIC also proposes that sunflowers will no longer have revenue protection due to the lack of consistent and appropriate price data. Sunflowers will only be insurable under APH coverage and a price election will be established by FCIC.

FCIC is proposing that the best features of each of the above stated plans of insurance be combined into the revised Basic Provisions and applicable Crop Provisions. Under this proposal, for each insured crop for which revenue protection is available, producers must choose whether to insure the crop under the revenue protection provisions or the yield protection provisions. Revenue protection provides coverage against loss of revenue caused by low prices or low yields or a combination of both.

If revenue protection is selected, the producer will receive protection against both the increase and decrease in price unless the producer elects the harvest price exclusion option, which eliminates coverage against an increase in price. If yield protection is selected by the producer, the producer will only receive coverage for production losses and not for any change in the expected market price.

The proposed changes to the policy will give producers the ability to insure their yield risk or their revenue risk under one policy. However, revenue protection will not be available for all crops that are covered by the Basic Provisions. Revenue protection is proposed to be provided only for those crops that were previously covered by CRC and RA, except for sunflowers, in all counties where APH is available for such crops. The actuarial documents will reflect the crops and counties where revenue coverage under the proposed Basic Provisions and applicable Crop Provisions will be made available. Revenue protection may be made available for additional crops as appropriate. Producers who previously

had revenue coverage will automatically continue to have revenue protection under the revised policy absent notice from such producers that they are canceling the insurance coverage by the cancellation date or changing their coverage by the sales closing date.

The purpose of this endeavor is to create one simple policy and remove the redundancies and excess documents that currently add unnecessary complexity to the program. CRC, RA, and the APH Common Crop Insurance Policy each have different Basic Provisions. The Common Crop Insurance Policy Basic Provisions is also used for IP and IIP. The various Basic Provisions and Crop Provisions for each of these plans of insurance contain many of the same or similar terms and conditions. The proposed Basic Provisions and applicable Crop Provisions will allow agents to more effectively assist producers in comparing the choices that are available because all the terms will be contained in one policy, actuarial documents, premium calculators, etc. This will significantly reduce the burdens on agents and insurance providers through less training and supporting documentation costs. Producers will have fewer documents to review when evaluating the best plan of insurance for their particular farming operations. The proposed Basic Provisions and applicable Crop Provisions will also improve program integrity by eliminating potential conflicts and the mistakes that can occur when individual plans of insurance are revised differently.

3. Existing Coverages and Proposed Changes

Following is a summary of the relevant terms of the current plans of insurance and the proposed changes to such terms.

a. Coverage Levels

Under APH, producers choose coverage levels ranging from 50 to 75 percent (up to 85 percent depending on the crop and county) in 5 percent increments. Catastrophic risk protection (CAT) coverage is available with a coverage level of 50 percent of the approved yield and 55 percent of the expected market price, or a comparable coverage as determined by FCIC for policies with other than individual yield (For example, a dollar plan of insurance has coverage of 27.5 percent of an established dollar amount).

Under CRC, producers choose the amount of revenue protection that meets their risk management needs by selecting a coverage level between 50 and 75 percent (up to 85 percent depending on the crop and county) in 5 percent increments. Catastrophic risk protection coverage is not available.

For IP and IIP, producers choose the amount of revenue protection that meets their risk management needs by selecting either CAT (based on 27.5 percent of the approved yield and 100 percent price election) or a coverage level between 50 and 75 percent (85 percent depending on the crop and location) in 5 percent increments.

Under RA, producers choose the amount of revenue protection that meets their risk management needs by selecting a coverage level between 65 and 85 percent for whole-farm and enterprise units and 65 to 75 percent for basic and optional units (80 and 85 percent coverage is available where the APH plan of insurance allows 80 and 85 percent coverage, except for cotton). Catastrophic risk protection coverage is not available.

Under the revised Basic Provisions and Crop Provisions, FCIC proposes to adopt the coverage levels ranging from 50 to 75 percent (up to 85 percent depending on the crop and county) in 5 percent increments. Catastrophic risk protection (CAT) coverage will be available for yield protection with a coverage level of 50 percent of the approved yield and 55 percent of the expected market price, or a comparable coverage as determined by FCIC (For example, 27.5 percent of the approved yield and 100 percent of the expected market price is a comparable coverage). CAT coverage will not be available for revenue protection.

CAT coverage will not be available for revenue protection because CAT coverage is intended to be a nominal coverage provided in the event of catastrophic disasters. As such, producers do not pay premium and are only charged an administrative fee. Because CAT coverage is only intended to provide the most basic of protection, its options have always been severely limited, such as no written agreements, no optional units, no additional prevented planting coverage, no other optional coverages offered, etc. Since revenue protection is an additional option available to producers it would be inconsistent to allow such coverage to be available for CAT coverage.

b. Unit Structure

Producers insured under the APH plan of insurance must insure all the acreage of the insured crop in the county in which they have an interest with the exception of high-risk land. Producers may exclude high-risk land from coverage or insure it at the CAT coverage level. Insured acreage may be divided into smaller acreage or units. Basic units are determined by share. For example, a producer who owns one field and rents another field in exchange for a share of the crop can have two basic units. However, if the same producer owned both fields or cash rented one of the fields, the producer would only be eligible for one basic unit.

Basic units may generally be subdivided into optional units that are determined by boundaries (i.e., section, Farm Serial Numbers, non-contiguous land, etc.) and/or production practice (i.e., irrigated, non-irrigated) and each proposed optional unit must be supported by separate historical records of planted acreage and yield. For some crops, basic units may also be combined into an enterprise unit, which means all acreage of the insured crop in the county in which the producer has an interest will be in one unit, regardless of share. There is a separate guarantee for each basic, optional or enterprise unit. A premium discount is available if the producer elects basic or enterprise units.

Producers insuring under the CRC plan of insurance must also insure all the acreage of the insured crop in the county in which they have an interest. Insured acreage may be divided into smaller acreage or units. Like APH, basic units are determined by share. Like APH, basic units may be subdivided into optional units that are determined by boundaries (i.e., section, Farm Serial Numbers, non-contiguous land, etc.) and/or production practice (i.e., irrigated, non-irrigated) and each proposed optional unit must be supported by separate historical records of planted acreage and yield. Like APH, basic units may also be combined into an enterprise unit, which means all acreage of the insured crop in the county in which the producer has an interest will be in one unit. There is a separate revenue protection guarantee for each basic or optional unit. Basic or optional units comprising the enterprise unit retain separate final guarantees. A premium discount is available if the producer elects basic or enterprise units.

Like APH and CRC, producers that insure under the RA plan of insurance must also insure all the acreage of the insured crop in the county in which they have an interest. Insured acreage may be divided into smaller acreage or units. Like APH and CRC, basic units are determined by share. Like APH and CRC, basic units may be subdivided into optional units that are determined by boundaries (i.e., section, Farm Serial Numbers, non-contiguous land, etc.)

and/or production practice (i.e., irrigated, non-irrigated) and each proposed optional unit must be supported by separate historical records of planted acreage and yield. Like APH and CRC, basic units may also be combined into an enterprise unit, which means all acreage of the insured crop in the county in which the producer has an interest will be insured in one unit. However, RA also offers whole-farm units, where all crops for which insurance is available is insured in one unit, except winter wheat.

RA provides a premium discount if the producer elects a basic or an enterprise unit. An additional premium discount is available when the insured elects the whole-farm unit.

With respect to IP and IIP, insurance is only provided for an enterprise unit. Whole-farm, basic and optional units are not available.

Under the revised Basic Provisions and Crop Provisions, FCIC proposes to require that producers must insure all the acreage of the insured crop in the county in which they have an interest regardless of whether yield or revenue protection is selected. However, producers with yield or revenue protection may select from several unit structures: Basic, optional or enterprise units. However, producers with revenue protection may also select whole-farm units. Basic units are again determined by share.

FCIC is proposing that basic units may be subdivided into optional units that are determined by boundaries (i.e., section, Farm Serial Numbers, non-contiguous land, etc.) and/or production practice (i.e., irrigated, non-irrigated) and each proposed optional unit must be supported by separate historical records of planted acreage and yield.

FCIC is also proposing that an enterprise unit may be available for certain crops, as designated in the actuarial documents. The revised policy provides a premium discount if the producer elects a basic or enterprise unit.

FCIC is also proposing to allow producers to obtain whole-farm units. The producer cannot selectively choose which crops to include under the whole-farm unit. The producer must include all insured crops for which revenue protection is available and in which the producer has a share, except winter barley and winter wheat, which may not be included in the whole-farm unit. Fall planted crops are excluded from the whole-farm unit because the different growing seasons make it impossible to establish the guarantee or premium that may be owed at the time of application because the information regarding the spring planted crops is not yet available. Further, producers with fall planted crops would have to wait until after harvest of all their spring planted crops before an indemnity could be paid. An additional premium discount is available when the producer elects the whole-farm unit.

c. Price Methodology

As stated above, under the APH plan of insurance, there is a price election announced by FCIC for each insured crop or type. The price elections represent 100 percent of the expected market price. Price elections are determined by FCIC based on the best available data to estimate the expected market price at the time of harvest and are issued by the contract change date for each insured crop. In addition to the price election available on the contract change date, FCIC may provide an additional price election no later than 15 days prior to the crop's sales closing date. The additional price election will not be less than the price available on the contract change date and is intended to allow FCIC to update its available data so that the expected market price can more accurately reflect the expected market price the producer will receive at the time of harvest. Producers must elect the additional price election by the sales closing date. The producer can elect a percentage of this announced price. For example, the producer can elect to receive a price that is 80 percent of the price election announced by FCIC.

Further, as stated above, under the CRC plan of insurance, the base price is 100 percent of the expected market price at the time of harvest but it is established prior to the attachment of insurance. The base price is used to establish the guarantee. The harvest price is also 100 percent of the expected market price at the time of harvest but is established just before the crop is normally harvested. The harvest price is used to calculate the value of the production to count and to recalculate the revenue guarantee when the harvest price exceeds the base price. The CRC base and harvest prices are an average of the commodity exchange daily settlement prices for the insured crop, futures contract or index, for the period specified in the Commodity Exchange Endorsement.

As stated above, like CRC, RA uses two prices. The projected harvest price and the fall harvest price. The projected harvest price is 100 percent of the expected market price at the time of harvest established prior to the attachment of insurance and this price is used to set the guarantee. The fall harvest price is also 100 percent of the expected market price at the time of harvest established just before the crop is normally harvested and it is used to determine the value of the production to count. The RA projected harvest price and fall harvest price are an average of the commodity exchange daily settlement prices for the insured crop, futures contract or index, for the period specified in the Crop Provisions. Only protection against a reduction in price is built into the RA policy. To obtain protection in case the fall harvest price is greater than the projected harvest price, the producer must purchase the fall harvest price option for an additional premium.

As stated above, IP and IIP use two prices to measure price fluctuation. The projected price establishes the revenue guarantee. The harvest price establishes the value of the production to count. IP and IIP prices are 100 percent of the average daily settlement price for the insured crop, futures contract or index, for the period specified in the Crop Provisions. IP and IIP only provide price protection if the harvest price is less than the projected price. They do not provide protection if the harvest price exceeds the projected price.

For the revised Basic Provisions and Crop Provisions, for crops for which revenue protection is available, FCIC proposes to use the commodity exchanges to establish a projected price and a harvest price (the harvest price will only be used for crops with revenue protection). FCIC also proposes that the revised policy provide coverage for both an increase and decrease in price, unless the producer selects the harvest price exclusion option. Selection of the harvest price exclusion option will only provide protection against a decrease in the price. No matter whether the producer selects to insure against both an increase and decrease in price or selects the harvest price exclusion option, the harvest price will be used to value production to count.

If the producer elects yield protection for a crop for which revenue protection is available, the projected price will be used to calculate the value of the production to count. For crops for which revenue protection is not available, expected market prices, amounts of insurance, and the value of the production to count, as applicable, will continue to be based on the price elections determined by FCIC in accordance with the applicable Crop Provisions.

The price discovery methodology for crops with revenue protection available will be specified in the Commodity Exchange Price Provisions (CEPP). The

CEPP will include the information necessary to derive the projected price and the harvest price including the applicable commodity exchange and the relevant futures trading days, if applicable.

FCIC proposes that the price discovery period end not less than 15 days prior to the sales closing date and the projected price will be released within 5 days after the price determination period ends. This will allow FCIC to establish the most relevant price possible for the projected price. Therefore, the projected price will be available on the Actuarial Data Master (ADM) at least 10 days prior to the sales closing date.

RMA proposes to add an informational tool to RMA's Web site that will accumulate revenue protection volatility factors and projected prices and harvest prices, as defined in the Commodity Exchange Price Provisions, during the price discovery period. While the values in the accumulator will only be estimates until the price discovery period expires, this informational tool will be useful for producers and agents to begin making informed decisions about the risk management alternatives as far in advance of sales closing dates as possible.

FCIC is also proposing that if there is insufficient price information to set the projected price for a crop, the projected price will be determined by FCIC and no revenue protection will be available. In such case, producers who elected revenue protection will automatically have yield protection, unless the policy is cancelled by the cancellation date, and the projected price determined by FCIC will be used to establish the value of the guarantee and production to count. If there is sufficient price information to set the projected price for a crop for which revenue protection is offered but there is insufficient information to set the harvest price, the harvest price will be set equal to the projected price.

For corn silage insured under revenue protection, FCIC is proposing that the harvest price be set equal to the projected price because corn silage is not traded under any commodity exchange and corn silage prices do not have a correlation to corn for grain or other crop prices that are established on a commodity exchange. The result of this action will allow the producer to insure both corn for silage and grain and may allow the producer to qualify for a whole-farm unit under revenue protection.

For rapeseed insured under revenue protection, FCIC is also proposing that the harvest price will be set equal to the projected price because rapeseed is not traded under any commodity exchange and rapeseed prices no longer have a consistent correlation to canola prices that are established on a commodity exchange. The result of this action will allow the producer to insure both rapeseed and canola and may allow the producer to qualify for a whole-farm unit under revenue protection.

d. Guarantees

Under the APH plan of insurance, the guarantee is determined by multiplying the approved yield by the coverage level selected by the producer.

Under the CRC plan of insurance, the guarantee used to calculate premium and any replant payment and prevented planting payment is the approved yield times the coverage level times the base price. Since the policy is intended to cover both increases and decreases in price, to determine the guarantee for the purposes of establishing an indemnity, the higher of the base price or harvest price is used to establish the final guarantee.

Under the RA plan of insurance, the revenue guarantee is determined by multiplying the approved yield times the coverage level times the projected harvest price. Unless the producer selects the fall harvest price option, this revenue guarantee will be used to calculate premium, and any replant payment and any prevented planting payment and indemnity. If the producer elects the fall harvest price option, the revenue guarantee is determined by multiplying the approved yield times the coverage level times the higher of the projected harvest price or the fall harvest price.

Under the IP plan of insurance, the guarantee is determined by multiplying the coverage level times the approved yield times the projected price. Since IP only provides coverage for reductions in price, the same guarantee is always used to calculate premiums and losses.

Under the IIP plan of insurance, the guarantee is the coverage level times the indexed approved yield (the producer's individual yield indexed against the county yield) times the projected price. Since IP only provides coverage for reductions in price, the same guarantee is always used to calculate premiums and replant payments, prevented planting payments and indemnities.

For the revised Basic Provisions and Crop Provisions, FCIC proposes that, for crops for which revenue protection is available, if the producer selects revenue protection, the revenue guarantee used to calculate premium, replant payment and any prevented planting payment is the approved yield times the coverage level times the projected price. Since the policy will cover both increases and decreases in price, to determine the guarantee for the purposes of establishing an indemnity, the final revenue guarantee will be calculated by multiplying the approved yield times the coverage level times the higher of the projected price or harvest price, unless the harvest price exclusion option is selected. If the harvest price exclusion option is selected, the revenue guarantee used to calculate premium will be used to calculate any indemnity.

If the producer selects yield protection, the guarantee for the purposes of establishing the premium and calculating any replanting payment, prevented planting payment, and indemnity will be based on the approved yield times the coverage level times the projected price.

For crops for which revenue protection is not available, the guarantee for the purposes of establishing the premium and calculating any replanting payment, prevented planting payment, and indemnity will continue to be based on the price elections or amounts of insurance, if applicable, determined by FCIC.

e. Production to Count and Indemnities

For APH, production to count is the amount of appraised and harvested production at the time of loss, adjusted for any quality losses, as applicable. Under the APH plan of insurance, an indemnity is calculated by subtracting the production to count from the production guarantee. If the production to count is less than the guarantee, an indemnity will be paid that is the difference between the guarantee and the production to count times the price election selected by the producer times the producer's share.

For CRC, production to count is the amount of appraised and harvested production at the time of loss, adjusted for any quality losses, as applicable. Under the CRC plan of insurance, an indemnity is calculated by subtracting the value of the production to count (production to count times the harvest price) from the final guarantee and multiplying the result by the producer's share.

For RA, production to count is the amount of appraised and harvested production at the time of loss, adjusted for any quality losses, as applicable. Under the RA plan of insurance, an indemnity is calculated by subtracting the value of production to count (production to count times the fall harvest price) from the revenue

guarantee and multiplying the result by the producer's share.

For IP and IIP, production to count is the amount of appraised and harvested production at the time of loss, adjusted for any quality losses, as applicable. Under IP and IIP, the indemnity is calculated by subtracting the value of the production to count (total production to count times the harvest price) from the amount of protection and multiplying the result by the producer's share.

For the revised Basic Provisions and Crop Provisions, FCIC proposes that for crops for which revenue protection is available and selected, production to count is the amount of appraised and harvested production at the time of loss, adjusted for any quality losses, as applicable. FCIC proposes that an indemnity is calculated by subtracting the value of the production to count (production to count times the harvest price) from the revenue protection guarantee, multiplied by the producer's share.

FCIC proposes that for crops for which revenue protection is available but yield protection is selected, production to count is the amount of appraised and harvested production at the time of loss, adjusted for any quality losses, as applicable. Further, FCIC proposes that an indemnity is calculated by subtracting the value of the production to count (production to count times the projected price) from the yield protection guarantee. The yield protection guarantee is based on the projected price.

f. Rating and Premium Subsidy

For APH, the premium is determined to be an amount necessary to cover the anticipated losses and a reasonable reserve. Premium covers only the anticipated losses associated with the loss of production. The premium subsidy is the portion of the total premium paid by the government and is in the amount established in section 508(e) of the Act.

For CRC, the premium rate is determined by using the premium rate for the APH plan of insurance with an additional rate necessary to cover the anticipated losses associated with the risk that the harvest price will exceed the base price and guarantees will be adjusted when calculating losses. The premium subsidy is the portion of the total premium paid by the government and is in the amount established in section 508(e) of the Act.

RA premium rates are calculated by a rating model incorporating the variability and correlation of yield and price. When the fall harvest price option is selected by the producer an additional premium rate is charged to cover the risk that the harvest price will exceed the projected price and guarantees will be adjusted when calculating losses. The premium subsidy is the portion of the total premium paid by the government and is in the amount established in section 508(e) of the Act.

IP and IIP premium rates are calculated by a rating model incorporating the variability of yield and price. The premium subsidy is the portion of the total premium paid by the government and is in the amount established in section 508(e) of the Act.

For the revised Basic Provisions and Crop Provisions, for revenue protection, premium rates are calculated by a rating model incorporating the variability and correlation of yield and price. For yield protection, premium rates are calculated the same as the APH policy. The premium subsidy is the portion of the total premium paid by the government and is in the amount established in section 508(e) of the Act.

g. Maximum Price Movement

With respect to changes in the value of the commodity that can occur during the insurance period, some policies contained limitations on the amount of price change that would be covered under the policy. This restriction was added because some markets were volatile and there needed to be a mechanism to measure the risk for actuarially sound rating. For instance, if the base price was $4.30 for soybeans and the market price at the time of harvest was $8.00, if the maximum price movement allowed is $3.00, the harvest price would be $7.30.

The maximum price movement was not applicable to APH because there is no revenue component to the coverage. Only yield risk is covered.

For CRC, the maximum price movement allowed under the policy was $1.50 per bushel for corn and grain sorghum, $3.00 per bushel for soybeans, $2.00 per bushel for wheat, $0.05 per pound for rice, and $0.70 per pound for cotton.

RA, IP and IIP did not contain a maximum price movement.

For the revised Basic Provisions and Crop Provisions, FCIC proposes that the harvest price will not exceed 160 percent of the projected price. However, this percentage will be contained in the Commodity Exchange Price Provisions to permit an expedited adjustment if necessary. Any adjustments will be made prior to the contract change date.

h. Exclusions and Availability

APH only provides protection against loss of yield due to a named insured peril. The hail and fire exclusion is available, which permits producers to exclude these perils from their APH policy and obtain private commercially available insurance. The premium rate for the APH policy is reduced to reflect the exclusion of these perils. Coverage may be precluded in certain instances, such as losses due to poor farming practices and other uninsured causes of loss such as negligence. High-risk land is eligible for coverage and written agreements are available. APH is available for most major commodities.

The CRC policy provides insurance protection for unavoidable loss of revenue due to insured causes of loss, including market price changes. Coverage may be precluded in certain instances, such as losses due to poor farming practices and other uninsured causes of loss such as negligence. The hail and fire exclusion is not available. High-risk land is eligible for coverage and written agreements are available. CRC is currently available for wheat, rice, cotton, corn, grain sorghum, and soybeans in all counties where the APH program is available.

The RA policy provides insurance protection for unavoidable loss of revenue due to insured causes of loss, including market price changes. Coverage may be precluded in certain instances, such as losses due to poor farming practices and other uninsured causes of loss such as negligence. The hail and fire exclusion is not available. High-risk land is eligible for coverage and written agreements are limited in availability. RA is currently available for wheat, canola and rapeseed, rice, cotton, corn, sunflowers, soybeans, barley and malting barley in selected states.

The IP and IIP policies provide insurance protection for unavoidable loss of revenue due to insured causes of loss, including reduced market prices. Coverage may be precluded in certain instances, such as losses due to poor farming practices and other uninsured causes of loss such as negligence. The hail and fire exclusion is not available. High-risk land is not eligible for coverage and written agreements are not available. IP is currently available for wheat, cotton, corn, grain sorghum, soybeans, barley and malting barley in selected states. IIP is available for corn in Maryland, New York, North Carolina, and Pennsylvania and soybeans in Maryland and North Carolina.

In the revised Basic Provisions and Crop Provisions, FCIC proposes to provide insurance protection for loss of

revenue due to loss of yield or changes in the market price resulting from insured causes of loss. Market price fluctuations will be presumed to be from insured causes of loss unless there is specific evidence that such fluctuation was caused by an uninsured cause of loss, such as quarantine or terrorist attack. Coverage may be precluded in certain instances, such as losses due to poor farming practices and other uninsured causes of loss such as negligence. The hail and fire exclusion is available. High-risk land is eligible for coverage and written agreements are also available. Revenue protection will be provided for those crops and counties where CRC, RA, IP and IIP were available, except for sunflowers.

4. Commodity Exchange Price Provisions

FCIC proposes that the Commodity Exchange Price Provisions be available for public inspection on RMA's Web site at *http://www.rma.usda.gov/*, or a successor Web site, by the contract change date and will also be available in the agent's office. The Commodity Exchange Price Provisions will not be published in the Code of Federal Regulations. However, FCIC would like comments on the Commodity Exchange Price Provisions and, therefore, has included its text below.

Commodity Exchange Price Provisions of Insurance; 2006 and Succeeding Crop Years

1. Definitions

Additional daily settlement price—Daily settlement prices for full active trading days based on the contract immediately prior and immediately following the appropriate commodity contract, or the contract immediately prior to the appropriate contract, provided the substitute contract(s) are within the same crop year. These prices are used to establish the projected and harvest price when at least 8 average daily settlement prices are not available.

Average daily settlement price—The sum of all daily settlement prices established on full active trading days, as specified in the applicable insured crop's projected price or harvest price definition, divided by the total number of full active trading days included in the sum. The average must include a minimum of 8 prices established on full active trading days. If there is not a minimum of 8 prices established on full active trading days for the applicable contract months specified for the insured crop in paragraph 3, additional daily settlement prices will be used to establish the average daily settlement price until there are 8 prices established on full active trading days.

CBOT—Chicago Board of Trade.

CME—Chicago Mercantile Exchange.

Full active trading day—Any day on which the relevant market is open during all regular trading hours for the relevant futures contract, and there are at least 25 open interest contracts on the relevant futures contract.

Harvest Price—Defined in section 3.

KCBT—Kansas City Board of Trade.

MGE—Minneapolis Grain Exchange.

National Agricultural Statistics Service (NASS)—An agency within USDA.

NYBT—New York Board of Trade.

Projected Price—Defined in section 3.

USDA—United States Department of Agriculture.

WCE—Winnipeg Commodity Exchange.

2. Price Determinations

(a) In accordance with section 1 of the Common Crop Insurance Policy Basic Provisions, these Commodity Exchange Price Provisions specify how and when the projected price and harvest price will be determined by crop.

(b) If revenue protection is available for the crop, average daily settlement prices will be used to determine:

(1) The projected price and harvest price for insured crops for which revenue protection is selected; or

(2) The projected price for insured crops for which yield protection is selected.

(c) Additional daily settlement prices will be derived beginning with the latest date defined by the applicable projected price or harvest price definition not qualifying as a full active trading day.

(d) RMA reserves the right to omit any daily settlement price or additional daily settlement price if market conditions are different than those used to rate or price revenue protection (For example, the trading hits the limits imposed by the Commodity Exchange).

(e) For the projected price, if the average daily settlement price cannot be calculated by the procedures outlined in these price provisions, no revenue protection coverage will be available.

(1) If revenue protection coverage is not available, notice will be provided on the Risk Management Agency Web site at *http://www.rma.usda.gov/* by the date specified in the applicable projected price definition.

(2) Yield protection may still be obtained for the crop by making application by the appropriate sales closing date or, for revenue protection policies that were in effect for the previous crop year, the coverage under such policy will automatically revert to yield protection. In such instances, the projected price will be established by RMA and released by the date specified in the applicable projected price definition.

(f) Projected and harvest prices will not be used to establish the price election for those crops for which revenue protection is not available.

3. Projected Price/Harvest Price

The following projected price and harvest price definitions by crop and sales closing date are defined in accordance with section 1 of the Common Crop Insurance Policy Basic Provisions. Notice of price release will be provided on RMA's Web site at *http://www.rma.usda.gov/* by the date specified in the projected price and harvest definitions listed below.

Barley (0091)

For counties with insurable types having a September 30 sales closing date:

Projected price—The pre-harvest year's average daily settlement price for the projected price discovery period for the harvest year's futures contract, as shown in the table below, rounded to the nearest whole cent, multiplied by .806, and rounded to the nearest whole cent. The projected price will be released by September 20 of the pre-harvest year.

Harvest price—The harvest year's average daily settlement price for the harvest price discovery period for the harvest year's futures contract, as shown in the table below, rounded to the nearest whole cent, multiplied by .806, and rounded to the nearest whole cent. The harvest price will be released within 5 days following the end of the harvest price discovery period. In no case may the harvest price exceed 160 percent of the projected price.

BILLING CODE 3410–08–P

BARLEY - September 30 Sales Closing Date					Projected Price Discovery Period		Harvest Price Discovery Period	
State	Insured Type	Commodity Exchange	Commodity	Contract Month	Beginning Date	Ending Date	Beginning Date	Ending Date
Colorado	Winter	CBOT	Corn	July	Sep 1	Sep 15	Jun 1	Jun 30
Delaware	Winter	CBOT	Corn	July	Sep 1	Sep 15	Jun 1	Jun 30
Georgia	No Type Specified	CBOT	Corn	July	Sep 1	Sep 15	Jun 1	Jun 30
Idaho	Winter w/ WCE	CBOT	Corn	September	Sep 1	Sep 15	Aug 1	Aug 31
Illinois	No Type Specified	CBOT	Corn	July	Sep 1	Sep 15	Jun 1	Jun 30
Indiana	No Type Specified	CBOT	Corn	July	Sep 1	Sep 15	Jun 1	Jun 30
Kansas	Winter	CBOT	Corn	July	Sep 1	Sep 15	Jun 1	Jun 30
Kentucky	No Type Specified	CBOT	Corn	July	Sep 1	Sep 15	Jun 1	Jun 30
Maryland	Winter	CBOT	Corn	July	Sep 1	Sep 15	Jun 1	Jun 30
Missouri	No Type Specified	CBOT	Corn	July	Sep 1	Sep 15	Jun 1	Jun 30
New Jersey	Winter	CBOT	Corn	July	Sep 1	Sep 15	Jun 1	Jun 30
New Mexico	No Type Specified	CBOT	Corn	July	Sep 1	Sep 15	Jun 1	Jun 30
New York	Winter	CBOT	Corn	September	Sep 1	Sep 15	Jul 1	Jul 31
North Carolina	No Type Specified	CBOT	Corn	July	Sep 1	Sep 15	Jun 1	Jun 30
Ohio	No Type Specified	CBOT	Corn	July	Sep 1	Sep 15	Jun 1	Jun 30
Oklahoma	No Type Specified	CBOT	Corn	July	Sep 1	Sep 15	Jun 1	Jun 30
Oregon	Winter w/ WCE	CBOT	Corn	September	Sep 1	Sep 15	Aug 1	Aug 31
Pennsylvania	Winter	CBOT	Corn	September	Sep 1	Sep 15	Jul 1	Jul 31
South Carolina	No Type Specified	CBOT	Corn	July	Sep 1	Sep 15	Jun 1	Jun 30
Tennessee	No Type Specified	CBOT	Corn	July	Sep 1	Sep 15	Jun 1	Jun 30
Texas	No Type Specified	CBOT	Corn	July	Sep 1	Sep 15	Jun 1	Jun 30
Virginia	No Type Specified	CBOT	Corn	July	Sep 1	Sep 15	Jun 1	Jun 30
Washington	Winter w/ WCE	CBOT	Corn	September	Sep 1	Sep 15	Aug 1	Aug 31
West Virginia	No Type Specified	CBOT	Corn	September	Sep 1	Sep 15	Jul 1	Jul 31

Barley (0091)

For counties with insurable types having an October 31 sales closing date:

Projected price—The pre-harvest year's average daily settlement price for the projected price discovery period for the harvest year's futures contract, as shown in the table below, rounded to the nearest whole cent, multiplied by .806, and rounded to the nearest whole cent. The projected price will be released by October 21 of the pre-harvest year.

Harvest price—The harvest year's average daily settlement price for the harvest price discovery period for the harvest year's futures contract, as shown in the table below, rounded to the nearest whole cent, multiplied by .806, and rounded to the nearest whole cent. The harvest price will be released within 5 days following the end of the harvest price discovery period. In no case may the harvest price exceed 160 percent of the projected price.

BARLEY - October 31 Sales Closing Date					Projected Price Discovery Period		Harvest Price Discovery Period	
State	Insured Type	Commodity Exchange	Commodity	Contract Month	Beginning Date	Ending Date	Beginning Date	Ending Date
Arizona	No Type Specified	CBOT	Corn	July	Oct 1	Oct 15	Jun 1	Jun 30
California	No Type Specified	CBOT	Corn	July	Oct 1	Oct 15	Jun 1	Jun 30
Nevada	Winter	CBOT	Corn	September	Oct 1	Oct 15	Aug 1	Aug 31
Utah	Winter	CBOT	Corn	September	Oct 1	Oct 15	Aug 1	Aug 31

Barley (0091)

For counties with insurable types having a March 15 sales closing date:

Projected price—The harvest year's average daily settlement price for the projected price discovery period for the harvest year's futures contract, as shown in the table below, rounded to the nearest whole cent, multiplied by .806, and rounded to the nearest whole cent. The projected price will be released by March 5 of the pre-harvest year. The projected price for Alaska is multiplied by the 10-year average of the ratio of NASS Alaska barley prices to NASS U.S. barley prices, and rounded to the nearest whole cent.

Harvest price—The harvest year's average daily settlement price for the harvest price discovery period for the harvest year's futures contract, as shown in the table below, rounded to the nearest whole cent, multiplied by .806, and rounded to the nearest whole cent. The harvest price will be released within 5 days following the end of the harvest price discovery period. In no case may the harvest price exceed 160 percent of the projected price. The harvest price for Alaska is multiplied by the 10-year average of the ratio of NASS Alaska barley prices to NASS U.S. barley prices, and rounded to the nearest whole cent.

BARLEY - March 15 Sales Closing Date

State	Insured Type	Commodity Exchange	Commodity	Contract Month	Projected Price Discovery Period Beginning Date	Projected Price Discovery Period Ending Date	Harvest Price Discovery Period Beginning Date	Harvest Price Discovery Period Ending Date
Alaska*	Spring	CBOT	Corn	December	Feb 14	Feb 28	Sep 1	Sep 30
California	Spring	CBOT	Corn	December	Feb 14	Feb 28	Sep 1	Sep 30
Colorado	Spring	CBOT	Corn	September	Feb 14	Feb 28	Aug 1	Aug 31
Colorado	No Type Specified	CBOT	Corn	September	Feb 14	Feb 28	Aug 1	Aug 31
Idaho	Winter w/o WCE	CBOT	Corn	September	Sep 1	Sep 15	Aug 1	Aug 31
Idaho	Spring	CBOT	Corn	September	Feb 14	Feb 28	Aug 1	Aug 31
Idaho	No Type Specified	CBOT	Corn	September	Feb 14	Feb 28	Aug 1	Aug 31
Iowa	Spring	CBOT	Corn	September	Feb 14	Feb 28	Jul 1	Jul 31
Kansas	Spring	CBOT	Corn	July	Feb 14	Feb 28	Jun 1	Jun 30
Maine	Spring	CBOT	Corn	December	Feb 14	Feb 28	Aug 1	Aug 31
Michigan	Spring	CBOT	Corn	September	Feb 14	Feb 28	Aug 1	Aug 31
Minnesota	Spring	CBOT	Corn	September	Feb 14	Feb 28	Aug 1	Aug 31
Montana	Spring	CBOT	Corn	September	Feb 14	Feb 28	Aug 1	Aug 31
Nebraska	No Type Specified	CBOT	Corn	September	Feb 14	Feb 28	Jul 1	Jul 31
Nevada	No Type Specified	CBOT	Corn	September	Feb 14	Feb 28	Aug 1	Aug 31
Nevada	Spring	CBOT	Corn	September	Feb 14	Feb 28	Aug 1	Aug 31
New Mexico	Spring	CBOT	Corn	July	Feb 14	Feb 28	Jun 1	Jun 30
New York	Spring	CBOT	Corn	September	Feb 14	Feb 28	Aug 1	Aug 31
North Dakota	Spring	CBOT	Corn	September	Feb 14	Feb 28	Aug 1	Aug 31
Oregon	Winter w/o WCE	CBOT	Corn	September	Sep 1	Sep 15	Aug 1	Aug 31
Oregon	Spring	CBOT	Corn	September	Feb 14	Feb 28	Aug 1	Aug 31
Oregon	No Type Specified	CBOT	Corn	September	Feb 14	Feb 28	Aug 1	Aug 31
Pennsylvania	Spring	CBOT	Corn	September	Feb 14	Feb 28	Aug 1	Aug 31
South Dakota	Spring	CBOT	Corn	September	Feb 14	Feb 28	Aug 1	Aug 31
Utah	No Type Specified	CBOT	Corn	September	Feb 14	Feb 28	Aug 1	Aug 31
Utah	Spring	CBOT	Corn	September	Feb 14	Feb 28	Aug 1	Aug 31
Vermont	Spring	CBOT	Corn	September	Feb 14	Feb 28	Aug 1	Aug 31
Washington	Winter w/o WCE	CBOT	Corn	September	Sep 1	Sep 15	Aug 1	Aug 31
Washington	Spring	CBOT	Corn	September	Feb 14	Feb 28	Aug 1	Aug 31
Washington	No Type Specified	CBOT	Corn	September	Feb 14	Feb 28	Aug 1	Aug 31
Wisconsin	Spring	CBOT	Corn	September	Feb 14	Feb 28	Aug 1	Aug 31
Wyoming	Spring	CBOT	Corn	September	Feb 14	Feb 28	Aug 1	Aug 31

Canola/Rapeseed (0015)

For counties with insurable types having an August 31 sales closing date:

Canola

Projected price—The pre-harvest year's average daily settlement price for the projected price discovery period for the harvest year's futures contract, as shown in the table below, divided by 2,205. This factor converts the WCE price from Canadian dollars per metric ton to Canadian dollars per pound. To convert to U.S. dollars, multiply the Canadian price per pound by the August 2–16 pre-harvest year's average daily settlement price for the CME June Canadian dollar futures contract for the harvest year, rounded to the nearest one-tenth of a cent. The projected price will be released by August 21 of the pre-harvest year.

Harvest price—The harvest year's average daily settlement price for the harvest price discovery period for the harvest year's futures contract, as shown in the table below, divided by 2,205. This factor converts the WCE price from Canadian dollars per metric ton to Canadian dollars per pound. To convert into U.S. dollars, multiply the Canadian price per pound by the May average daily settlement price for the CME June Canadian dollar futures contract for the harvest year, rounded to the nearest one-tenth of a cent. The harvest price will be released within 5 days following the end of the harvest price discovery period. In no case may the harvest price exceed 160 percent of the projected price.

CANOLA - August 31 Sales Closing Date

State	Insured Type	Commodity Exchange	Commodity	Contract Month	Projected Price Discovery Period Beginning Date	Projected Price Discovery Period Ending Date	Harvest Price Discovery Period Beginning Date	Harvest Price Discovery Period Ending Date
Idaho	Fall Oleic Canola	WCE	Canola	November	Aug 1	Aug 15	Aug 1	Aug 31
Oregon	Fall Oleic Canola	WCE	Canola	November	Aug 1	Aug 15	Aug 1	Aug 31
Washington	Fall Oleic Canola	WCE	Canola	November	Aug 1	Aug 15	Aug 1	Aug 31

Rapeseed

Rapeseed is not traded on any Commodity Exchange. However, revenue protection is still considered to be available and the projected and harvest prices will be established by FCIC in accordance with this CEPP. The result of this action will allow the producer to insure both canola and rapeseed under revenue protection. With both canola and rapeseed insured under revenue protection the producer may qualify for a whole-farm unit. However, rapeseed will not have the benefit of the projected price and the harvest price moving as the price on the Commodity Exchange moves for canola.

Projected price—A price established by FCIC and released by June 30 of the pre-harvest year.

Harvest price—A price set by FCIC that is equal to the projected price.

Canola/Rapeseed (0015)

For counties with insurable types having a September 30 sales closing date:

Canola

Projected price—The pre-harvest year's average daily settlement price for the projected price discovery period for the harvest year's futures contract, as shown in the table below, divided by 2,205. This factor converts the WCE price from Canadian

dollars per metric ton to Canadian dollars per pound. To convert into U.S. dollars, multiply the Canadian price per pound by the September 1–15 pre-harvest year's average daily settlement price for the CME June Canadian dollar futures contract for the harvest year, rounded to the nearest one-tenth of a cent. The projected price will be released by September 20 of the pre-harvest year.

Harvest price—The harvest year's average daily settlement price for the harvest price discovery period for the harvest year's futures contract, as shown in the table below, divided by 2,205. This factor converts the WCE price from Canadian dollars per metric ton to Canadian dollars per pound. To convert into U.S. dollars, multiply the Canadian price per pound by the May average daily settlement price for the CME June Canadian dollar futures contract for the harvest year, rounded to the nearest one-tenth of a cent. The harvest price will be released within 5 days following the end of the harvest price discovery period. In no case may the harvest price exceed 160 percent of the projected price.

CANOLA - September 30 Sales Closing Date					Projected Price Discovery Period		Harvest Price Discovery Period	
State	Insured Type	Commodity Exchange	Commodity	Contract Month	Beginning Date	Ending Date	Beginning Date	Ending Date
Alabama	Fall Seeded	WCE	Canola	July	Sep 1	Sep 15	May 1	May 31
Georgia	Fall Seeded	WCE	Canola	July	Sep 1	Sep 15	May 1	May 31

Rapeseed

Rapeseed is not traded on any Commodity Exchange. However, revenue protection is still considered to be available and the projected and harvest prices will be established by FCIC in accordance with this CEPP. The result of this action will allow the producer to insure both canola and rapeseed under revenue protection. With both canola and rapeseed insured under revenue protection the producer may qualify for a whole-farm unit. However, rapeseed will not have the benefit of the projected price and the harvest price moving as the price on the Commodity Exchange moves for canola.

Projected price—A price established by FCIC and released by June 30 of the pre-harvest year.

Harvest price—A price set by FCIC that is equal to the projected price.

Canola/Rapeseed (0015)

For counties with insurable types having a March 15 sales closing date:

Canola

Projected price—The harvest year's average daily settlement price for the projected price discovery period for the harvest year's futures contract, as shown in the table below, divided by 2,205. This factor converts the WCE price from Canadian dollars per metric ton to Canadian dollars per pound. To convert into U.S. dollars, multiply the Canadian price per pound by the February 14–28 average daily settlement price for the harvest year's CME September Canadian dollar futures contract for the harvest year, rounded to the nearest one-tenth of a cent. The projected price will be released by March 5 of the harvest year.

Harvest price—The harvest year's average daily settlement price for the harvest price discovery period for the harvest year's futures contract, as shown in the table below, divided by 2,205. This factor converts the WCE price from Canadian dollars per metric ton to Canadian dollars per pound. To convert into U.S. dollars, multiply the Canadian price per pound by the September average daily settlement price for the CME September Canadian dollar futures contract for the harvest year, rounded to the nearest one-tenth of a cent. The harvest price will be released within 5 days following the end of the harvest price discovery period. In no case may the harvest price exceed 160 percent of the projected price.

CANOLA - March 15 Sales Closing Date					Projected Price Discovery Period		Harvest Price Discovery Period	
State	Insured Type	Commodity Exchange	Commodity	Contract Month	Beginning Date	Ending Date	Beginning Date	Ending Date
Idaho	Spring Oleic Canola	WCE	Canola	November	Feb 14	Feb 28	Sep 1	Sep 30
Minnesota	Spring	WCE	Canola	November	Feb 14	Feb 28	Sep 1	Sep 30
Montana	Spring	WCE	Canola	November	Feb 14	Feb 28	Sep 1	Sep 30
North Dakota	Spring	WCE	Canola	November	Feb 14	Feb 28	Sep 1	Sep 30
Oregon	Spring Oleic Canola	WCE	Canola	November	Feb 14	Feb 28	Sep 1	Sep 30
Washington	Spring Oleic Canola	WCE	Canola	November	Feb 14	Feb 28	Sep 1	Sep 30

Rapeseed

Rapeseed is not traded on any Commodity Exchange. However, revenue protection is still considered to be available and the projected and harvest prices will be established by FCIC in accordance with this CEPP. The result of this action will allow the producer to insure both canola and rapeseed under revenue protection. With both canola and rapeseed insured under revenue protection the producer may qualify for a whole-farm unit. However, rapeseed will not have the benefit of the projected price and the harvest price moving as the price on the Commodity Exchange moves for canola.

Projected price—A price established by FCIC and released by June 30 of the pre-harvest year.

Harvest price—A price set by FCIC that is equal to the projected price.

Corn (0041)

For counties with insurable types having a January 31 sales closing date:

Grain Type

Projected price—The harvest year's average daily settlement price for the projected price discovery period for the harvest year's futures contract, as shown in the table below, rounded to the nearest whole cent. The projected price will be released by January 21 of the harvest year.

Harvest price—The harvest year's average daily settlement price for the harvest price discovery period for the harvest year's futures contract, as shown in the table below, rounded to the nearest whole cent. The harvest price will be released within 5 days following the end of the harvest price discovery period. In no case may the harvest price exceed 160 percent of the projected price.

State	Insured Type	Commodity Exchange	Commodity	Contract Month	Projected Price Discovery Period Beginning Date	Projected Price Discovery Period Ending Date	Harvest Price Discovery Period Beginning Date	Harvest Price Discovery Period Ending Date
Texas	Grain	CBOT	Corn	September	Jan 2	Jan 16	Aug 1	Aug 31

Silage Type

Corn for silage is not traded on any Commodity Exchange. However, revenue protection is still considered to be available and the projected and harvest prices will be established by FCIC in accordance with this CEPP. The result of this action will allow the producer to insure both the silage and grain types of corn under revenue protection. With both types of corn insured under revenue protection the producer may qualify for a whole-farm unit. However, corn insured as silage will not have the benefit of the projected price and the harvest price moving as the price on the Commodity Exchange moves for corn for grain.

Projected price—A price established by FCIC and released by November 30 of the pre-harvest year.

Harvest price—A price set by FCIC that is equal to the projected price.

Corn (0041)

Grain Type

For counties with insurable types having a February 15 sales closing date:

Projected price—The harvest year's average daily settlement price for the projected price discovery period for the harvest year's futures contract, as shown in the table below, rounded to the nearest whole cent. The projected price will be released by February 5 of the harvest year.

Harvest price—The harvest year's average daily settlement price for the harvest price discovery period for the harvest year's futures contract, as shown in the table below, rounded to the nearest whole cent. The harvest price will be released within 5 days following the end of the harvest price discovery period. In no case may the harvest price exceed 160 percent of the projected price.

State	Insured Type	Commodity Exchange	Commodity	Contract Month	Projected Price Discovery Period Beginning Date	Projected Price Discovery Period Ending Date	Harvest Price Discovery Period Beginning Date	Harvest Price Discovery Period Ending Date
Texas	Grain	CBOT	Corn	December	Jan 17	Jan 31	Sep 1	Sep 30

Silage Type

Corn for silage is not traded on any Commodity Exchange. However, revenue protection is still considered to be available and the projected and harvest prices will be established by FCIC in accordance with this CEPP. The result of this action will allow the producer to insure both the silage and grain types of corn under revenue protection. With both types of corn insured under revenue protection the producer may qualify for a whole-farm unit. However, corn insured as silage will not have the benefit of the projected price and the harvest price moving as the price on the Commodity Exchange moves for corn for grain.

Projected price—A price established by FCIC and released by November 30 of the pre-harvest year.

Harvest price—A price set by FCIC that is equal to the projected price.

Corn (0041)

Grain Type

For counties with insurable types having a February 28 sales closing date:

Projected price—The harvest year's average daily settlement price for the projected price discovery period for the harvest year's futures contract, as shown in the table below, rounded to the nearest whole cent. The projected price will be released by February 18 of the harvest year.

Harvest price—The harvest year's average daily settlement price for the harvest price discovery period for the harvest year's futures contract, as shown in the table below, rounded to the nearest whole cent. The harvest price will be released within 5 days following the end of the harvest price discovery period. In no case may the harvest price exceed 160 percent of the projected price.

State	Insured Type	Commodity Exchange	Commodity	Contract Month	Projected Price Discovery Period Beginning Date	Projected Price Discovery Period Ending Date	Harvest Price Discovery Period Beginning Date	Harvest Price Discovery Period Ending Date
Alabama	Grain	CBOT	Corn	December	Jan 30	Feb 13	Sep 1	Sep 30
Arizona	Grain	CBOT	Corn	December	Jan 30	Feb 13	Oct 1	Oct 31
Arkansas	Grain	CBOT	Corn	December	Jan 30	Feb 13	Sep 1	Sep 30
California	Grain	CBOT	Corn	December	Jan 30	Feb 13	Oct 1	Oct 31
Florida	Grain	CBOT	Corn	September	Jan 30	Feb 13	Aug 1	Aug 31
Georgia	Grain	CBOT	Corn	September	Jan 30	Feb 13	Aug 1	Aug 31
Louisiana	Grain	CBOT	Corn	September	Jan 30	Feb 13	Aug 1	Aug 31
Mississippi	Grain	CBOT	Corn	December	Jan 30	Feb 13	Sep 1	Sep 30
North Carolina	Grain	CBOT	Corn	December	Jan 30	Feb 13	Sep 1	Sep 30
South Carolina	Grain	CBOT	Corn	December	Jan 30	Feb 13	Sep 1	Sep 30

Silage Type

Corn for silage is not traded on any Commodity Exchange. However, revenue protection is still considered to be available and the projected and harvest prices will be established by FCIC in accordance with this CEPP. The result of this action will allow the producer to insure both the silage and grain types of corn under revenue protection. With both types of corn insured under revenue protection the producer may qualify for a whole-farm unit. However, corn insured as silage will not have the benefit of the projected price and the harvest price moving as the price on the Commodity Exchange moves for corn for grain.

Projected price— A price established by FCIC and released by November 30 of the pre-harvest year.

Harvest price—A price set by FCIC that is equal to the projected price.

Corn (0041)

Grain Type

For counties with insurable types having a March 15 sales closing date:

Projected price—The harvest year's average daily settlement price for the projected price discovery period for the harvest year's futures contract, as shown in the table below, rounded to the nearest whole cent. The projected price will be released by March 5 of the harvest year.

Harvest price—The harvest year's average daily settlement price for the harvest price discovery period for the harvest year's futures contract, as shown in the table below, rounded to the nearest whole cent. The harvest price will be released within 5 days following the end of the harvest price discovery period. In no case may the harvest price exceed 160 percent of the projected price.

					Projected Price Discovery Period		Harvest Price Discovery Period	
State	Insured Type	Commodity Exchange	Commodity	Contract Month	Beginning Date	Ending Date	Beginning Date	Ending Date
Colorado	Grain	CBOT	Corn	December	Feb 14	Feb 28	Oct 1	Oct 31
Connecticut	Grain	CBOT	Corn	December	Feb 14	Feb 28	Nov 1	Nov 30
Delaware	Grain	CBOT	Corn	December	Feb 14	Feb 28	Oct 1	Oct 31
Idaho	Grain	CBOT	Corn	December	Feb 14	Feb 28	Nov 1	Nov 30
Illinois	Grain	CBOT	Corn	December	Feb 14	Feb 28	Oct 1	Oct 31
Indiana	Grain	CBOT	Corn	December	Feb 14	Feb 28	Oct 1	Oct 31
Iowa	Grain	CBOT	Corn	December	Feb 14	Feb 28	Oct 1	Oct 31
Kansas	Grain	CBOT	Corn	December	Feb 14	Feb 28	Oct 1	Oct 31
Kentucky	Grain	CBOT	Corn	December	Feb 14	Feb 28	Oct 1	Oct 31
Maine	Grain	CBOT	Corn	December	Feb 14	Feb 28	Nov 1	Nov 30
Maryland	Grain	CBOT	Corn	December	Feb 14	Feb 28	Oct 1	Oct 31
Massachusetts	Grain	CBOT	Corn	December	Feb 14	Feb 28	Nov 1	Nov 30
Michigan	Grain	CBOT	Corn	December	Feb 14	Feb 28	Nov 1	Nov 30
Minnesota	Grain	CBOT	Corn	December	Feb 14	Feb 28	Oct 1	Oct 31
Missouri	Grain	CBOT	Corn	December	Feb 14	Feb 28	Oct 1	Oct 31
Montana	Grain	CBOT	Corn	December	Feb 14	Feb 28	Oct 1	Oct 31
Nebraska	Grain	CBOT	Corn	December	Feb 14	Feb 28	Oct 1	Oct 31
New Hampshire	Grain	CBOT	Corn	December	Feb 14	Feb 28	Nov 1	Nov 30
New Jersey	Grain	CBOT	Corn	December	Feb 14	Feb 28	Nov 1	Nov 30
New Mexico	Grain	CBOT	Corn	December	Feb 14	Feb 28	Oct 1	Oct 31
New York	Grain	CBOT	Corn	December	Feb 14	Feb 28	Nov 1	Nov 30
North Dakota	Grain	CBOT	Corn	December	Feb 14	Feb 28	Oct 1	Oct 31
Ohio	Grain	CBOT	Corn	December	Feb 14	Feb 28	Oct 1	Oct 31
Oklahoma	Grain	CBOT	Corn	December	Feb 14	Feb 28	Sep 1	Sep 30
Oregon	Grain	CBOT	Corn	December	Feb 14	Feb 28	Nov 1	Nov 30
Pennsylvania	Grain	CBOT	Corn	December	Feb 14	Feb 28	Nov 1	Nov 30
Rhode Island	Grain	CBOT	Corn	December	Feb 14	Feb 28	Nov 1	Nov 30
South Dakota	Grain	CBOT	Corn	December	Feb 14	Feb 28	Oct 1	Oct 31
Tennessee	Grain	CBOT	Corn	December	Feb 14	Feb 28	Oct 1	Oct 31
Texas	Grain	CBOT	Corn	December	Feb 14	Feb 28	Sep 1	Sep 30
Utah	Grain	CBOT	Corn	December	Feb 14	Feb 28	Oct 1	Oct 31
Vermont	Grain	CBOT	Corn	December	Feb 14	Feb 28	Nov 1	Nov 30
Virginia	Grain	CBOT	Corn	December	Feb 14	Feb 28	Oct 1	Oct 31
Washington	Grain	CBOT	Corn	December	Feb 14	Feb 28	Nov 1	Nov 30
West Virginia	Grain	CBOT	Corn	December	Feb 14	Feb 28	Oct 1	Oct 31
Wisconsin	Grain	CBOT	Corn	December	Feb 14	Feb 28	Oct 1	Oct 31
Wyoming	Grain	CBOT	Corn	December	Feb 14	Feb 28	Oct 1	Oct 31

Silage Type

Corn for silage is not traded on any Commodity Exchange. However, revenue protection is still considered to be available and the projected and harvest prices will be established by FCIC in accordance with this CEPP. The result of this action will allow the producer to insure both the silage and grain types of corn under revenue protection. With both types of corn insured under revenue protection the producer may qualify for a whole-farm unit. However, corn insured as silage will not have the benefit of the projected price and the harvest price moving as the price on the Commodity Exchange moves for corn for grain.

Projected price—A price established by FCIC and released by November 30 of the pre-harvest year.

Harvest price—A price set by FCIC that is equal to the projected price.

Cotton (0021)

For counties with insurable types having a January 31 sales closing date:

Projected price—The harvest year's average daily settlement price for the projected price discovery period for the harvest year's futures contract, as shown in the table below, rounded to the nearest whole cent. The projected price will be released by January 21 of the harvest year.

Harvest price—The harvest year's average daily settlement price for the harvest price discovery period for the harvest year's futures contract, as shown in the table below, rounded to the nearest whole cent. The harvest price will be released within 5 days following the end of the harvest price discovery period. In no case may the harvest price exceed 160 percent of the projected price.

					Projected Price Discovery Period		Harvest Price Discovery Period	
State	Insured Type	Commodity Exchange	Commodity	Contract Month	Beginning Date	Ending Date	Beginning Date	Ending Date
Texas	No Type Specified	NYBT	Cotton	October	Jan 2	Jan 16	Sep 1	Sep 30

Cotton (0021)

For counties with insurable types having a February 28 sales closing date:

Projected price—The harvest year's average daily settlement price for the projected price discovery period for the harvest year's futures contract, as shown in the table below, rounded to the nearest whole cent. The projected price will be released by February 18 of the harvest year.

Harvest price—The harvest year's average daily settlement price for the harvest price discovery period for the harvest year's futures contract, as shown in the table below, rounded to the nearest whole cent. The harvest price will be released within 5 days following the end of the harvest price discovery period. In no case may the harvest price exceed 160 percent of the projected price.

					Projected Price Discovery Period		Harvest Price Discovery Period	
State	Insured Type	Commodity Exchange	Commodity	Contract Month	Beginning Date	Ending Date	Beginning Date	Ending Date
Alabama	No Type Specified	NYBT	Cotton	December	Jan 30	Feb 13	Oct 1	Oct 31
Arizona	No Type Specified	NYBT	Cotton	December	Jan 30	Feb 13	Oct 1	Oct 31
Arkansas	No Type Specified	NYBT	Cotton	December	Jan 30	Feb 13	Oct 1	Oct 31
California	No Type Specified	NYBT	Cotton	December	Jan 30	Feb 13	Oct 1	Oct 31
Florida	No Type Specified	NYBT	Cotton	December	Jan 30	Feb 13	Oct 1	Oct 31
Georgia	No Type Specified	NYBT	Cotton	December	Jan 30	Feb 13	Oct 1	Oct 31
Louisiana	No Type Specified	NYBT	Cotton	December	Jan 30	Feb 13	Oct 1	Oct 31
Mississippi	No Type Specified	NYBT	Cotton	December	Jan 30	Feb 13	Oct 1	Oct 31
North Carolina	No Type Specified	NYBT	Cotton	December	Jan 30	Feb 13	Oct 1	Oct 31
South Carolina	No Type Specified	NYBT	Cotton	December	Jan 30	Feb 13	Oct 1	Oct 31
Texas	No Type Specified	NYBT	Cotton	December	Jan 30	Feb 13	Oct 1	Oct 31

Cotton (0021)

For counties with insurable types having a March 15 sales closing date:

Projected price—The harvest year's average daily settlement price for the projected price discovery period for the harvest year's futures contract, as shown in the table below, rounded to the nearest whole cent. The projected price will be released by March 5 of the harvest year.

Harvest price—The harvest year's average daily settlement price for the harvest price discovery period for the harvest year's futures contract, as shown in the table below, rounded to the nearest whole cent. The harvest price will be released within 5 days following the end of the harvest price discovery period. In no case may the harvest price exceed 160 percent of the projected price.

					Projected Price Discovery Period		Harvest Price Discovery Period	
State	Insured Type	Commodity Exchange	Commodity	Contract Month	Beginning Date	Ending Date	Beginning Date	Ending Date
Kansas	No Type Specified	NYBT	Cotton	December	Feb 14	Feb 28	Nov 1	Nov 30
Missouri	No Type Specified	NYBT	Cotton	December	Feb 14	Feb 28	Oct 1	Oct 31
New Mexico	No Type Specified	NYBT	Cotton	December	Feb 14	Feb 28	Nov 1	Nov 30
Oklahoma	No Type Specified	NYBT	Cotton	December	Feb 14	Feb 28	Nov 1	Nov 30
Tennessee	No Type Specified	NYBT	Cotton	December	Feb 14	Feb 28	Oct 1	Oct 31
Texas	No Type Specified	NYBT	Cotton	December	Feb 14	Feb 28	Nov 1	Nov 30
Viriginia	No Type Specified	NYBT	Cotton	December	Feb 14	Feb 28	Oct 1	Oct 31

Grain Sorghum (0051)

For counties with insurable types having a January 31 sales closing date:

Projected price—The harvest year's average daily settlement price for the projected price discovery period for the harvest year's futures contract, as shown in the table below, rounded to the nearest whole cent, multiplied by the price percentage relationship between grain sorghum and corn, as determined by RMA based on the harvest year's United States Department of Agriculture (USDA) January estimate of corn and grain sorghum prices, and rounded to the nearest whole cent. The projected price will be released by January 21 of the harvest year.

Harvest price—The harvest year's average daily settlement price for the harvest price discovery period for the harvest year's futures contract, as shown in the table below, rounded to the nearest whole cent, multiplied by the price percentage relationship between grain sorghum and corn, as determined by RMA based on the harvest year's United States Department of Agriculture (USDA) January estimate of corn and grain sorghum prices, and rounded to the nearest whole cent. The harvest price will be released within 5 days following the end of the harvest price discovery period. In no case may the harvest price exceed 160 percent of the projected price.

State	Insured Type	Commodity Exchange	Commodity	Contract Month	Projected Price Discovery Period Beginning Date	Projected Price Discovery Period Ending Date	Harvest Price Discovery Period Beginning Date	Harvest Price Discovery Period Ending Date
Texas	No Type Specified	CBOT	Corn	September	Jan 2	Jan 16	Aug 1	Aug 31

Grain Sorghum (0051)

For counties with insurable types having a February 15 sales closing date:

Projected price—The harvest year's average daily settlement price for the projected price discovery period for the harvest year's futures contract, as shown in the table below, rounded to the nearest whole cent, multiplied by the price percentage relationship between grain sorghum and corn, as determined by RMA based on the harvest year's United States Department of Agriculture (USDA) January estimate of corn and grain sorghum prices, and rounded to the nearest whole cent. The projected price will be released by February 5 of the harvest year.

Harvest price—The harvest year's average daily settlement price for the harvest price discovery period for the harvest year's futures contract, as shown in the table below, rounded to the nearest whole cent, multiplied by the price percentage relationship between grain sorghum and corn, as determined by RMA based on the harvest year's United States Department of Agriculture (USDA) January estimate of corn and grain sorghum prices, and rounded to the nearest whole cent. The harvest price will be released within 5 days following the end of the harvest price discovery period. In no case may the harvest price exceed 160 percent of the projected price.

State	Insured Type	Commodity Exchange	Commodity	Contract Month	Projected Price Discovery Period Beginning Date	Projected Price Discovery Period Ending Date	Harvest Price Discovery Period Beginning Date	Harvest Price Discovery Period Ending Date
Texas	No Type Specified	CBOT	Corn	September	Jan 2	Jan 16	Aug 1	Aug 31

Grain Sorghum (0051)

For counties with insurable types having a February 28 sales closing date:

Projected price—The harvest year's average daily settlement price for the projected price discovery period for the harvest year's futures contract, as shown in the table below, rounded to the nearest whole cent, multiplied by the price percentage relationship between grain sorghum and corn, as determined by RMA based on the harvest year's United States Department of Agriculture (USDA) January estimate of corn and grain sorghum prices, and rounded to the nearest whole cent. The projected price will be released by February 18 of the harvest year.

Harvest price—The harvest year's average daily settlement price for the harvest price discovery period for the harvest year's futures contract, as shown in the table below, rounded to the nearest whole cent, multiplied by the price percentage relationship between grain sorghum and corn, as determined by RMA based on the harvest year's United States Department of Agriculture (USDA) January estimate of corn and grain sorghum prices, and rounded to the nearest whole cent. The harvest price will be released within 5 days following the end of the harvest price discovery period. In no case may the harvest price exceed 160 percent of the projected price.

State	Insured Type	Commodity Exchange	Commodity	Contract Month	Projected Price Discovery Period Beginning Date	Projected Price Discovery Period Ending Date	Harvest Price Discovery Period Beginning Date	Harvest Price Discovery Period Ending Date
Alabama	No Type Specified	CBOT	Corn	December	Jan 30	Feb 13	Oct 1	Oct 31
Arizona	No Type Specified	CBOT	Corn	December	Jan 30	Feb 13	Oct 1	Oct 31
Arkansas	No Type Specified	CBOT	Corn	December	Jan 30	Feb 13	Sep 1	Sep 30
California	No Type Specified	CBOT	Corn	December	Jan 30	Feb 13	Oct 1	Oct 31
Florida	No Type Specified	CBOT	Corn	December	Jan 30	Feb 13	Oct 1	Oct 31
Georgia	No Type Specified	CBOT	Corn	December	Jan 30	Feb 13	Oct 1	Oct 31
Louisiana	No Type Specified	CBOT	Corn	December	Jan 30	Feb 13	Sep 1	Sep 30
Mississippi	No Type Specified	CBOT	Corn	December	Jan 30	Feb 13	Sep 1	Sep 30
North Carolina	No Type Specified	CBOT	Corn	December	Jan 30	Feb 13	Oct 1	Oct 31
South Carolina	No Type Specified	CBOT	Corn	December	Jan 30	Feb 13	Oct 1	Oct 31

Grain Sorghum (0051)

For counties with insurable types having a March 15 sales closing date:

Projected price—The harvest year's average daily settlement price for the projected price discovery period for the harvest year's futures contract, as shown in the table below, rounded to the nearest whole cent, multiplied by the price percentage relationship between grain sorghum and corn, as determined by RMA based on the harvest year's United States Department of Agriculture (USDA) January estimate of corn and grain sorghum prices, and rounded to the nearest whole cent. The projected price will be released by March 5 of the harvest year.

Harvest price—The harvest year's average daily settlement price for the harvest price discovery period for the harvest year's futures contract, as shown in the table below, rounded to the nearest whole cent, multiplied by the price percentage relationship between grain sorghum and corn, as determined by RMA based on the harvest year's United States Department of Agriculture (USDA) January estimate of corn and grain sorghum prices, and rounded to the nearest whole cent. The harvest price will be released within 5 days following the end of the harvest price discovery period. In no case may the harvest price exceed 160 percent of the projected price.

State	Insured Type	Commodity Exchange	Commodity	Contract Month	Projected Price Discovery Period Beginning Date	Projected Price Discovery Period Ending Date	Harvest Price Discovery Period Beginning Date	Harvest Price Discovery Period Ending Date
Colorado	No Type Specified	CBOT	Corn	December	Feb 14	Feb 28	Oct 1	Oct 31
Delaware	No Type Specified	CBOT	Corn	December	Feb 14	Feb 28	Oct 1	Oct 31
Illinois	No Type Specified	CBOT	Corn	December	Feb 14	Feb 28	Oct 1	Oct 31
Indiana	No Type Specified	CBOT	Corn	December	Feb 14	Feb 28	Oct 1	Oct 31
Iowa	No Type Specified	CBOT	Corn	December	Feb 14	Feb 28	Oct 1	Oct 31
Kansas	No Type Specified	CBOT	Corn	December	Feb 14	Feb 28	Oct 1	Oct 31
Kentucky	No Type Specified	CBOT	Corn	December	Feb 14	Feb 28	Oct 1	Oct 31
Maryland	No Type Specified	CBOT	Corn	December	Feb 14	Feb 28	Oct 1	Oct 31
Minnesota	No Type Specified	CBOT	Corn	December	Feb 14	Feb 28	Oct 1	Oct 31
Missouri	No Type Specified	CBOT	Corn	December	Feb 14	Feb 28	Oct 1	Oct 31
Nebraska	No Type Specified	CBOT	Corn	December	Feb 14	Feb 28	Oct 1	Oct 31
New Mexico	No Type Specified	CBOT	Corn	December	Feb 14	Feb 28	Oct 1	Oct 31
New York	No Type Specified	CBOT	Corn	December	Feb 14	Feb 28	Oct 1	Oct 31
North Dakota	No Type Specified	CBOT	Corn	December	Feb 14	Feb 28	Oct 1	Oct 31
Ohio	No Type Specified	CBOT	Corn	December	Feb 14	Feb 28	Oct 1	Oct 31
Oklahoma	No Type Specified	CBOT	Corn	December	Feb 14	Feb 28	Oct 1	Oct 31
Pennsylvania	No Type Specified	CBOT	Corn	December	Feb 14	Feb 28	Oct 1	Oct 31
South Dakota	No Type Specified	CBOT	Corn	December	Feb 14	Feb 28	Oct 1	Oct 31
Tennessee	No Type Specified	CBOT	Corn	December	Feb 14	Feb 28	Oct 1	Oct 31
Texas	No Type Specified	CBOT	Corn	December	Feb 14	Feb 28	Sep 1	Sep 30
Virginia	No Type Specified	CBOT	Corn	December	Feb 14	Feb 28	Oct 1	Oct 31
Wisconsin	No Type Specified	CBOT	Corn	December	Feb 14	Feb 28	Oct 1	Oct 31

Rice (0018)

For counties with insurable types having a January 31 sales closing date:

Projected price—The harvest year's average daily settlement price for the projected price discovery period for the harvest year's futures contract, as shown in the table below, rounded to the nearest whole cent. The projected price will be released by January 21 of the harvest year.

Harvest price—The harvest year's average daily settlement price for the harvest price discovery period for the harvest year's futures contract, as shown in the table below, rounded to the nearest whole cent. The harvest price will be released within 5 days following the end of the harvest price discovery period. In no case may the harvest price exceed 160 percent of the projected price.

State	Insured Type	Commodity Exchange	Commodity	Contract Month	Projected Price Discovery Period Beginning Date	Projected Price Discovery Period Ending Date	Harvest Price Discovery Period Beginning Date	Harvest Price Discovery Period Ending Date
Texas	No Type Specified	CBOT	Rice	September	Jan 2	Jan 16	Aug 1	Aug 31

Rice (0018)

For counties with insurable types having a February 15 sales closing date:

Projected price—The harvest year's average daily settlement price for the projected price discovery period for the harvest year's futures contract, as shown in the table below, rounded to the nearest whole cent. The projected price will be released by February 5 of the harvest year.

Harvest price—The harvest year's average daily settlement price for the harvest price discovery period for the harvest year's futures contract, as shown in the table below, rounded to the nearest whole cent. The harvest price will be released within 5 days following the end of the harvest price discovery period. In no case may the harvest price exceed 160 percent of the projected price.

State	Insured Type	Commodity Exchange	Commodity	Contract Month	Projected Price Discovery Period Beginning Date	Projected Price Discovery Period Ending Date	Harvest Price Discovery Period Beginning Date	Harvest Price Discovery Period Ending Date
Florida	No Type Specified	CBOT	Rice	November	Jan 17	Jan 31	Sep 1	Sep 30

Rice (0018)

For counties with insurable types having a February 28 sales closing date:

Projected price—The harvest year's average daily settlement price for the projected price discovery period for the harvest year's futures contract, as shown in the table below, rounded to the nearest whole cent. The projected price will be released by February 18 of the harvest year.

Harvest price—The harvest year's average daily settlement price for the harvest price discovery period for the harvest year's futures contract, as shown in the table below, rounded to the nearest whole cent. The harvest price will be released within 5 days following the end of the harvest price discovery period. In no case may the harvest price exceed 160 percent of the projected price.

State	Insured Type	Commodity Exchange	Commodity	Contract Month	Projected Price Discovery Period Beginning Date	Projected Price Discovery Period Ending Date	Harvest Price Discovery Period Beginning Date	Harvest Price Discovery Period Ending Date
Arkansas	No Type Specified	CBOT	Rice	November	Jan 30	Feb 13	Sep 1	Sep 30
California	No Type Specified	CBOT	Rice	November	Jan 30	Feb 13	Oct 1	Oct 31
Louisiana	No Type Specified	CBOT	Rice	September	Jan 30	Feb 13	Aug 1	Aug 31
Mississippi	No Type Specified	CBOT	Rice	November	Jan 30	Feb 13	Sep 1	Sep 30
Missouri	No Type Specified	CBOT	Rice	November	Jan 30	Feb 13	Oct 1	Oct 31
Oklahoma	No Type Specified	CBOT	Rice	November	Jan 30	Feb 13	Sep 1	Sep 30
Tennessee	No Type Specified	CBOT	Rice	November	Jan 30	Feb 13	Oct 1	Oct 31
Texas	No Type Specified	CBOT	Rice	November	Jan 30	Feb 13	Sep 1	Sep 30

Soybeans (0081)

For counties with insurable types having a January 31 sales closing date:

Projected price—The harvest year's average daily settlement price for the projected price discovery period for the harvest year's futures contract, as shown in the table below, rounded to the nearest whole cent. The projected price will be released by January 21 of the harvest year.

Harvest price—The harvest year's average daily settlement price for the harvest price discovery period for the harvest year's futures contract, as shown in the table below, rounded to the nearest whole cent. The harvest price will be released within 5 days following the end of the harvest price discovery period. In no case may the harvest price exceed 160 percent of the projected price.

State	Insured Type	Commodity Exchange	Commodity	Contract Month	Projected Price Discovery Period Beginning Date	Projected Price Discovery Period Ending Date	Harvest Price Discovery Period Beginning Date	Harvest Price Discovery Period Ending Date
Texas	No Type Specified	CBOT	Soybeans	November	Jan 2	Jan 16	Sep 1	Sep 30

Soybeans (0081)

For counties with insurable types having a February 28 sales closing date:

Projected price—The harvest year's average daily settlement price for the projected price discovery period for the harvest year's futures contract, as shown in the table below, rounded to the nearest whole cent. The projected price will be released by February 18 of the harvest year.

Harvest price—The harvest year's average daily settlement price for the harvest price discovery period for the harvest year's futures contract, as shown in the table below, rounded to the nearest whole cent. The harvest price will be released within 5 days following the end of the harvest price discovery period. In no case may the harvest price exceed 160 percent of the projected price.

State	Insured Type	Commodity Exchange	Commodity	Contract Month	Projected Price Discovery Period Beginning Date	Projected Price Discovery Period Ending Date	Harvest Price Discovery Period Beginning Date	Harvest Price Discovery Period Ending Date
Alabama	No Type Specified	CBOT	Soybeans	January	Jan 30	Feb 13	Nov 1	Nov 30
Arkansas	No Type Specified	CBOT	Soybeans	November	Jan 30	Feb 13	Oct 1	Oct 31
Florida	No Type Specified	CBOT	Soybeans	January	Jan 30	Feb 13	Nov 1	Nov 30
Georgia	No Type Specified	CBOT	Soybeans	January	Jan 30	Feb 13	Nov 1	Nov 30
Louisiana	No Type Specified	CBOT	Soybeans	November	Jan 30	Feb 13	Oct 1	Oct 31
Mississippi	No Type Specified	CBOT	Soybeans	November	Jan 30	Feb 13	Oct 1	Oct 31
North Carolina	No Type Specified	CBOT	Soybeans	January	Jan 30	Feb 13	Nov 1	Nov 30
South Carolina	No Type Specified	CBOT	Soybeans	January	Jan 30	Feb 13	Nov 1	Nov 30
Texas	No Type Specified	CBOT	Soybeans	November	Jan 30	Feb 13	Oct 1	Oct 31

Soybeans (0081)

For counties with insurable types having a March 15 sales closing date:

Projected price—The harvest year's average daily settlement price for the projected price discovery period for the harvest year's futures contract, as shown in the table below, rounded to the nearest whole cent. The projected price will be released by March 5 of the harvest year.

Harvest price—The harvest year's average daily settlement price for the harvest price discovery period for the harvest year's futures contract, as shown in the table below, rounded to the nearest whole cent. The harvest price will be released within 5 days following the end of the harvest price discovery period. In no case may the harvest price exceed 160 percent of the projected price.

State	Insured Type	Commodity Exchange	Commodity	Contract Month	Projected Price Discovery Period		Harvest Price Discovery Period	
					Beginning Date	Ending Date	Beginning Date	Ending Date
Colorado	No Type Specified	CBOT	Soybeans	November	Feb 14	Feb 28	Oct 1	Oct 31
Delaware	No Type Specified	CBOT	Soybeans	January	Feb 14	Feb 28	Nov 1	Nov 30
Illinois	No Type Specified	CBOT	Soybeans	November	Feb 14	Feb 28	Oct 1	Oct 31
Indiana	No Type Specified	CBOT	Soybeans	November	Feb 14	Feb 28	Oct 1	Oct 31
Iowa	No Type Specified	CBOT	Soybeans	November	Feb 14	Feb 28	Oct 1	Oct 31
Kansas	No Type Specified	CBOT	Soybeans	November	Feb 14	Feb 28	Oct 1	Oct 31
Kentucky	No Type Specified	CBOT	Soybeans	November	Feb 14	Feb 28	Oct 1	Oct 31
Maryland	No Type Specified	CBOT	Soybeans	January	Feb 14	Feb 28	Nov 1	Nov 30
Michigan	No Type Specified	CBOT	Soybeans	November	Feb 14	Feb 28	Oct 1	Oct 31
Minnesota	No Type Specified	CBOT	Soybeans	November	Feb 14	Feb 28	Oct 1	Oct 31
Missouri	No Type Specified	CBOT	Soybeans	November	Feb 14	Feb 28	Oct 1	Oct 31
Nebraska	No Type Specified	CBOT	Soybeans	November	Feb 14	Feb 28	Oct 1	Oct 31
New Jersey	No Type Specified	CBOT	Soybeans	January	Feb 14	Feb 28	Nov 1	Nov 30
New York	No Type Specified	CBOT	Soybeans	January	Feb 14	Feb 28	Nov 1	Nov 30
North Dakota	No Type Specified	CBOT	Soybeans	November	Feb 14	Feb 28	Oct 1	Oct 31
Ohio	No Type Specified	CBOT	Soybeans	November	Feb 14	Feb 28	Oct 1	Oct 31
Oklahoma	No Type Specified	CBOT	Soybeans	January	Feb 14	Feb 28	Oct 1	Oct 31
Pennsylvania	No Type Specified	CBOT	Soybeans	January	Feb 14	Feb 28	Nov 1	Nov 30
South Dakota	No Type Specified	CBOT	Soybeans	November	Feb 14	Feb 28	Oct 1	Oct 31
Tennessee	No Type Specified	CBOT	Soybeans	January	Feb 14	Feb 28	Nov 1	Nov 30
Texas	No Type Specified	CBOT	Soybeans	November	Feb 14	Feb 28	Oct 1	Oct 31
Virginia	No Type Specified	CBOT	Soybeans	January	Feb 14	Feb 28	Nov 1	Nov 30
West Virginia	No Type Specified	CBOT	Soybeans	January	Feb 14	Feb 28	Nov 1	Nov 30
Wisconsin	No Type Specified	CBOT	Soybeans	November	Feb 14	Feb 28	Oct 1	Oct 31

Wheat (0011)

For counties with insurable types having a September 30 sales closing date:

Projected price—The pre-harvest year's average daily settlement price for the projected price discovery period for the harvest year's futures contract, as shown in the table below, rounded to the nearest whole cent. The projected price will be released by September 20 of the pre-harvest year.

Harvest price—The harvest year's average daily settlement price for the harvest price discovery period for the harvest year's futures contract, as shown in the table below, rounded to the nearest whole cent. The harvest price will be released within 5 days following the end of the harvest price discovery period. In no case may the harvest price exceed 160 percent of the projected price.

WHEAT - September 30 Sales Closing Date

State	Insured Type	Commodity Exchange	Commodity	Contract Month	Projected Price Discovery Period Beginning Date	Projected Price Discovery Period Ending Date	Harvest Price Discovery Period Beginning Date	Harvest Price Discovery Period Ending Date
Alabama	No Type Specified	CBOT	Wheat	July	Sep 1	Sep 15	Jun 1	Jun 30
Arkansas	No Type Specified	CBOT	Wheat	July	Sep 1	Sep 15	Jun 1	Jun 30
California	Winter	KCBT	HRW Wheat	July	Sep 1	Sep 15	Jun 1	Jun 30
Colorado	Winter	KCBT	HRW Wheat	September	Sep 1	Sep 15	Jul 1	Jul 31
Colorado	No Type Specified	KCBT	HRW Wheat	September	Sep 1	Sep 15	Jul 1	Jul 31
Delaware	No Type Specified	CBOT	Wheat	September	Sep 1	Sep 15	Jul 1	Jul 31
Florida	No Type Specified	CBOT	Wheat	July	Sep 1	Sep 15	May 1	May 31
Georgia	No Type Specified	CBOT	Wheat	July	Sep 1	Sep 15	Jun 1	Jun 30
Idaho	Winter	KCBT	HRW Wheat	September	Sep 1	Sep 15	Aug 1	Aug 31
Idaho	Spring	MGE	HRS Wheat	September	Feb 14	Feb 28	Aug 1	Aug 31
Illinois	No Type Specified	CBOT	Wheat	September	Sep 1	Sep 15	Jul 1	Jul 31
Indiana	No Type Specified	CBOT	Wheat	September	Sep 1	Sep 15	Jul 1	Jul 31
Iowa	Winter	CBOT	Wheat	September	Sep 1	Sep 15	Jul 1	Jul 31
Kansas	No Type Specified	KCBT	HRW Wheat	July	Sep 1	Sep 15	Jun 1	Jun 30
Kentucky	No Type Specified	CBOT	Wheat	July	Sep 1	Sep 15	Jun 1	Jun 30
Louisiana	No Type Specified	CBOT	Wheat	July	Sep 1	Sep 15	Jun 1	Jun 30
Maryland	No Type Specified	CBOT	Wheat	September	Sep 1	Sep 15	Jul 1	Jul 31
Michigan	Winter	CBOT	Wheat	September	Sep 1	Sep 15	Jul 1	Jul 31
Mississippi	No Type Specified	CBOT	Wheat	July	Sep 1	Sep 15	Jun 1	Jun 30
Missouri	No Type Specified	CBOT	Wheat	September	Sep 1	Sep 15	Jul 1	Jul 31
Montana	Winter	KCBT	HRW Wheat	September	Sep 1	Sep 15	Aug 1	Aug 31
Nebraska	Winter	KCBT	HRW Wheat	September	Sep 1	Sep 15	Jul 1	Jul 31
Nebraska	No Type Specified	KCBT	HRW Wheat	September	Sep 1	Sep 15	Jul 1	Jul 31
New Jersey	No Type Specified	CBOT	Wheat	September	Sep 1	Sep 15	Jul 1	Jul 31
New Mexico	No Type Specified	KCBT	HRW Wheat	July	Sep 1	Sep 15	Jun 1	Jun 30
New York	No Type Specified	CBOT	Wheat	September	Sep 1	Sep 15	Jul 1	Jul 31
North Carolina	No Type Specified	CBOT	Wheat	July	Sep 1	Sep 15	Jun 1	Jun 30
Ohio	No Type Specified	CBOT	Wheat	September	Sep 1	Sep 15	Jul 1	Jul 31
Oklahoma	No Type Specified	KCBT	HRW Wheat	July	Sep 1	Sep 15	Jun 1	Jun 30
Oregon	Winter	KCBT	HRW Wheat	September	Sep 1	Sep 15	Aug 1	Aug 31
Oregon	Spring	MGE	HRS Wheat	September	Feb 14	Feb 28	Aug 1	Aug 31
Pennsylvania	No Type Specified	CBOT	Wheat	September	Sep 1	Sep 15	Jul 1	Jul 31
South Carolina	No Type Specified	CBOT	Wheat	July	Sep 1	Sep 15	Jun 1	Jun 30
South Dakota	Winter	KCBT	HRW Wheat	September	Sep 1	Sep 15	Jul 1	Jul 31
Tennessee	No Type Specified	CBOT	Wheat	July	Sep 1	Sep 15	Jun 1	Jun 30
Texas	No Type Specified	KCBT	HRW Wheat	July	Sep 1	Sep 15	Jun 1	Jun 30
Virginia	No Type Specified	CBOT	Wheat	September	Sep 1	Sep 15	Jul 1	Jul 31
Washington	Winter	KCBT	HRW Wheat	September	Sep 1	Sep 15	Aug 1	Aug 31
Washington	Spring	MGE	HRS Wheat	September	Feb 14	Feb 28	Aug 1	Aug 31
West Virginia	No Type Specified	CBOT	Wheat	September	Sep 1	Sep 15	Jul 1	Jul 31
Wisconsin	Winter	CBOT	Wheat	September	Sep 1	Sep 15	Aug 1	Aug 31
Wyoming	Winter	KCBT	HRW Wheat	September	Sep 1	Sep 15	Aug 1	Aug 31

Wheat (0011)

For counties with insurable types having an October 31 sales closing date:

Projected price—The pre-harvest year's average daily settlement price for the projected price discovery period for the harvest year's futures contract, as shown in the table below, rounded to the nearest whole cent. The projected price will be released by October 21 of the pre-harvest year.

Harvest price—The harvest year's average daily settlement price for the harvest price discovery period for the harvest year's futures contract, as shown in the table below, rounded to the nearest whole cent. The harvest price will be released within 5 days following the end of the harvest price discovery period. In no case may the harvest price exceed 160 percent of the projected price.

WHEAT - October 31 Sales Closing Date

State	Insured Type	Commodity Exchange	Commodity	Contract Month	Projected Price Discovery Period Beginning Date	Projected Price Discovery Period Ending Date	Harvest Price Discovery Period Beginning Date	Harvest Price Discovery Period Ending Date
Arizona	Winter	KCBT	HRW Wheat	July	Oct 1	Oct 15	Jun 1	Jun 30
Arizona	Durum	MGE	HRS Wheat	July	Oct 1	Oct 15	Jun 1	Jun 30
California	Winter	KCBT	HRW Wheat	July	Oct 1	Oct 15	Jun 1	Jun 30
California	Durum	MGE	HRS Wheat	July	Oct 1	Oct 15	Jun 1	Jun 30
Nevada	Winter	KCBT	HRW Wheat	September	Oct 1	Oct 15	Aug 1	Aug 31
Nevada	Spring	MGE	HRS Wheat	September	Feb 14	Feb 28	Aug 1	Aug 31
Utah	Winter	KCBT	HRW Wheat	September	Oct 1	Oct 15	Aug 1	Aug 31
Utah	Spring	MGE	HRS Wheat	September	Feb 14	Feb 28	Aug 1	Aug 31

Wheat (0011)

For counties with insurable types having a March 15 sales closing date:

Projected price—The harvest year's average daily settlement price for the projected price discovery period for the harvest year's futures contract, as shown in the table below, rounded to the nearest whole cent. The projected price will be released by March 5 of the harvest year.

Harvest price—The harvest year's average daily settlement price for the harvest price discovery period for the harvest year's futures contract, as shown in the table below, rounded to the nearest whole cent. The harvest price will be released within 5 days following the end of the harvest price discovery period. In no case may the harvest price exceed 160 percent of the projected price.

WHEAT - March 15 Sales Closing Date					Projected Price Discovery Period		Harvest Price Discovery Period	
State	Insured Type	Commodity Exchange	Commodity	Contract Month	Beginning Date	Ending Date	Beginning Date	Ending Date
Alaska	Spring	MGE	HRS Wheat	September	Feb 14	Feb 28	Aug 1	Aug 31
California	Spring	MGE	HRS Wheat	September	Feb 14	Feb 28	Aug 1	Aug 31
Colorado	Spring	MGE	HRS Wheat	September	Feb 14	Feb 28	Aug 1	Aug 31
Iowa	Spring	MGE	HRS Wheat	September	Feb 14	Feb 28	Aug 1	Aug 31
Maine	No Type Specified	MGE	HRS Wheat	September	Feb 14	Feb 28	Aug 1	Aug 31
Minnesota	No Type Specified	MGE	HRS Wheat	September	Feb 14	Feb 28	Aug 1	Aug 31
Montana	Khorasan	MGE	HRS Wheat	September	Feb 14	Feb 28	Aug 1	Aug 31
Montana	Spring	MGE	HRS Wheat	September	Feb 14	Feb 28	Aug 1	Aug 31
Montana	Durum	MGE	HRS Wheat	September	Feb 14	Feb 28	Aug 1	Aug 31
Nebraska	Spring	MGE	HRS Wheat	September	Feb 14	Feb 28	Aug 1	Aug 31
North Dakota	Khorasan	MGE	HRS Wheat	September	Feb 14	Feb 28	Aug 1	Aug 31
North Dakota	Spring	MGE	HRS Wheat	September	Feb 14	Feb 28	Aug 1	Aug 31
North Dakota	Durum	MGE	HRS Wheat	September	Feb 14	Feb 28	Aug 1	Aug 31
South Dakota	Spring	MGE	HRS Wheat	September	Feb 14	Feb 28	Aug 1	Aug 31
South Dakota	Durum	MGE	HRS Wheat	September	Feb 14	Feb 28	Aug 1	Aug 31
South Dakota	No Type Specified	MGE	HRS Wheat	September	Feb 14	Feb 28	Aug 1	Aug 31
Vermont	No Type Specified	MGE	HRS Wheat	September	Feb 14	Feb 28	Aug 1	Aug 31
Wisconsin	Spring	MGE	HRS Wheat	September	Feb 14	Feb 28	Aug 1	Aug 31
Wyoming	Spring	MGE	HRS Wheat	September	Feb 14	Feb 28	Aug 1	Aug 31
Wyoming	No Type Specified	MGE	HRS Wheat	September	Feb 14	Feb 28	Aug 1	Aug 31

5. Basis for Specific Changes to the Common Crop Insurance Policy Basic Provisions

The proposed changes are as follows:

(a) Section 457.8—FCIC proposes to revise § 457.8 to add new paragraphs (c) through (f) to specify that the policy that the producer currently has will continue but under the newly revised terms contained in the Common Crop Insurance Policy Basic Provisions. This means that if insured producers previously had APH coverage under a crop that now has revenue protection available, those producers will receive yield protection at the percentage of price and level of coverage under their current elections, including any endorsements to the Crop Provisions that are in effect. This means that producers who are currently insured under CRC, RA, IP or IIP will continue to receive revenue protection, except for sunflowers, but it will now be under the Common Crop Insurance Policy Basic Provisions at the percentage of price and level of coverage under their current elections, including any endorsements to the Crop Provisions that are in effect. This also means that a producer who previously had coverage for a crop for which revenue protection is not available will continue with the same coverage, e.g. APH or amount of insurance.

Nothing in these revisions precludes producers from canceling their crop insurance coverage or canceling options or endorsements currently in effect on or before the cancellation date contained in the Crop Provisions. Further, on or before the sales closing date, producers may change from yield protection to revenue protection or vice-versa, change their percentage of price, change their levels of coverage, or elect other available options to the Crop Provisions.

If a producer currently has RA coverage without the Fall Harvest Price Option, that producer will automatically receive revenue protection with the harvest price exclusion option unless the producer elects to change coverage by the sales closing date. All current APH databases will be applicable to both yield and revenue protection.

If a producer currently has the hail and fire exclusion option in effect under the current APH or amount of insurance coverage, that option will still be in effect for yield protection, yield coverage, or amount of insurance, unless the producer cancels such coverage. A producer who has revenue protection will now be eligible for the hail and fire exclusion option if the requirements are met.

If a producer currently has a High-Risk Land Exclusion Option in effect and has CAT coverage on the high-risk land, the producer will continue to have the High-Risk Land Exclusion Option in effect and have CAT coverage on the high-risk land until it is canceled. If a producer has a properly executed Power of Attorney on file with the insurance provider that signed Power of Attorney is still in effect under the revised Common Crop Insurance Policy Basic Provisions until it is terminated. If the producer has a current written agreement in effect for the crop for multiple years, that same written agreement will still be in effect if the terms of the written agreement are still applicable, the conditions under which the written agreement was provided have not changed, and the policy remains with the same insurance provider.

Also, FCIC proposes to add a reference to the "Commodity Exchange Price Provisions, as applicable" in the "agreement to insure section" to indicate order of precedence between it and the other policy documents;

(b) Section 1—FCIC proposes to add definitions of "Commodity Exchange Price Provisions (CEPP)," "harvest price," "harvest price exclusion option," "projected price," "revenue protection," "revenue protection guarantee (per acre)," "yield protection," and "yield protection

guarantee (per acre)" and revise the definitions of "policy," and "price election" so that revenue protection can be explained and incorporated into the Common Crop Insurance Policy Basic Provisions.

FCIC also proposes to add a definition of "Cooperative Extension System" to clarify the persons who are actually the specialists in agronomy, who work in the field, and would be available to provide recommendations and opinions as agricultural experts. FCIC also proposes to add the definition of "RMA's Web site" so that it does not need to be defined and an address listed everywhere it is used. FCIC also proposes to add a definition of "common land unit" because such a unit of measure may be used when FCIC and the Farm Service Agency develop their common reporting system.

FCIC also proposes to revise the definition of "actuarial documents" in response to the addition of the definition of RMA's Web site and to add the term "price" because it is also a policy provision that is included in the actuarial documents. FCIC also proposes to revise the definitions of "agricultural experts" and "organic agricultural industry" to replace the reference to "Cooperative State Research, Education, and Extension Service" with "Cooperative Extension System" because the Cooperative State Research, Education, and Extension Service informed FCIC that it was not the agency that would provide the actual expertise. Such expertise will come from the field from persons associated with the Cooperative Extension System.

FCIC proposes to revise the definition of "assignment of indemnity" to incorporate changes proposed in section 29 that allow assignments to be made only to legitimate creditors of the insured person. FCIC also proposes to revise the definition of "average yield" to clarify that adjustments made to actual yields include only those reductions to actual yields required by the policy. Other adjustments referenced in the definition of "average yield" have been removed because the average yield is a simple average of the actual numbers and these other adjustments are more properly included in the definition of "approved yield."

FCIC also proposes to revise the definition of "catastrophic risk protection" to preclude producers who elect revenue protection to also obtain CAT coverage because revenue protection is considered an option and CAT policies are not eligible for optional coverage. FCIC also proposes to remove the language pertaining to the waiver of disaster assistance because the waiver is no longer being used by the Farm Service Agency.

FCIC also proposes to revise the definition of "claim for indemnity" to remove the language regarding the timeframe by which claims must be submitted because this is a substantive provision that imposes a requirement on the producer. Further, this timeframe is not applicable to revenue policies. Therefore, this provision has been moved to section 14 of the revised Common Crop Insurance Policy Basic Provisions. FCIC also proposes to revise the definition of "delinquent debt" to specify that this term will be as defined in the ineligibility regulations published at 7 CFR part 400, subpart U. This will prevent any conflicts between the policy provisions and other applicable regulations.

FCIC proposes to revise the definition of "enterprise unit" to remove the substantive provisions regarding basic and optional units and move them to section 34. FCIC proposes to revise the definition of "share" to include the term "insurable interest" and add a definition of "insurable interest," which is currently defined in 7 CFR part 400, subpart T. FCIC also proposes to revise the definition of "prevented planting" to restructure it and to add provisions clarifying that failure to plant because of lack of equipment or labor is not considered prevented planting because lack of equipment or labor are not insured causes of loss. Issues have arisen because such conditions may cause the producer to be unable to plant the crop. However, the failure to plant must be caused by an insured cause of loss specified in the Crop Provisions to be covered under the prevented planting provisions. The references to labor and equipment are not intended to suggest that other similar causes may be covered under the policy (e.g. inability to obtain seed). If not caused by an insured cause of loss, prevented planting is not covered.

FCIC proposes to revise the definition of "production report" to clarify that the approved insurance provider may approve types of records not included in the definition in accordance with FCIC approved procedures.

FCIC is proposing to revise the definition of "substantial beneficial interest" to clarify the reference to otherwise legally separate under state law. When originally drafted this provision was intended to cover those situations where the marriage was dissolving through legal separation or divorce and referred to legally separate under state law because different states may use different terms when the parties are separating. However, questions have arisen regarding whether other separate property laws, etc., may apply so FCIC is clarifying that the only state laws applicable are those regarding the dissolution of marriage.

FCIC proposes to revise the definition of "void" because there may be other reasons why the policy is void other than as a result of concealment, fraud or misrepresentation. FCIC also proposes to revise the definition of "whole-farm unit" to remove the substantive provisions regarding the number of insured crops and percent of liability and move them to section 34;

(c) Section 2—FCIC proposes to revise section 2(a) to specify that even though the policy is continuous, it may be revised each year provided such revision is done in accordance with section 4 of the Common Crop Insurance Policy Basic Provisions, which specifies the manner in which the policy may be revised. This change is being made to avoid any misperception that the continuous nature of the policy in any way inhibits FCIC's ability to revise the policy provisions.

FCIC proposes to revise section 2(b) to specify that the producer's application must also include the producer's election of revenue protection or yield protection, as applicable, and the percentage of the price election or percentage of projected price and harvest price. This will facilitate the incorporation of revenue protection into the Common Crop Insurance Policy Basic Provisions. Also, FCIC proposes to revise the provisions to specify that incorrect SSN's or EIN's must be corrected before any insurance payment is made. If an incorrect number is not corrected for the insured producer before any insurance payment is made, no coverage will be provided for any crops listed on the application. If an incorrect number is not corrected for a person with a substantial beneficial interest in the insured producer, insurance coverage will be reduced by the percentage interest that person had in the insured producer, or, if the person is determined to be ineligible, no coverage will be provided. FCIC is also proposing to clarify the reduction in share that will occur if a spouse's identification number is not provided as a substantial beneficial interest because there have been questions regarding what the amount of share is presumed to be. FCIC has clarified that spouses are presumed to have a 50 percent share in the spouse's share.

FCIC is also proposing to revise the provisions to specify that if the producer, or a person with a substantial beneficial interest in the producer is not

eligible to obtain a SSN, or if the producer is a person other than an individual and a person with a substantial interest in the producer is not eligible to obtain a SSN, the producer must request and receive an identification number for the purposes of the policy from the approved insurance provider (AIP). If an identification number is not requested by the producer and provided by the AIP, the amount of coverage for all crops on the application will be reduced proportionately by the percentage interest of that person. If the person is the named applicant and no identification was obtained, the policy will be void. This language was incorporated to clarify when a SSN, EIN, or identification number is needed for another person's interest in a crop and how to obtain an identification number.

FCIC also proposes to revise section 2(g) to specify if a married insured dies, disappears, or is judicially declared incompetent the policy will automatically convert to the spouse's name and will continue to be in effect until the spouse cancels it. However, if a partner, member, shareholder, etc., dies, disappears, or is judicially declared incompetent more than 30 days before the sales closing date, the policy is automatically canceled as of the cancellation date and a new application must be submitted. If such occurrence occurs less than 30 days before the sales closing date or after the sales closing date, the policy will continue in effect through the crop year, unless it is canceled by the producer by the cancellation date, and will be automatically canceled as of the cancellation date immediately following the end of the insurance period for the crop year. The provisions were changed so that in the event of a death, disappearance or judicially declared incompetence, the survivors would have at least 30 days to obtain a new policy. There have been numerous situations where an insured spouse has died and the surviving spouse continues to provide the necessary information and later realizes that insurance coverage is not provided because insurance was not in the surviving spouse's name. With respect to entities, the death of a member of the entity changes the business relationship with respect to all matters and, therefore, they are accustomed to having to make such changes. However, there are situations where the death may occur near the sales closing date and there is insufficient time to change the name on the policy. For this reason, FCIC is proposing to allow the policy to continue in effect for the remainder of the crop year when such death, etc., occurs within 30 days of the sales closing date.

Also, FCIC proposes to revise the provisions to specify that in the event any insured entity is dissolved before the sales closing date, the policy is automatically canceled by the cancellation date prior to the start of the insurance period. However, if it is dissolved on or after the sales closing date the policy will continue in effect through the crop year, unless canceled by the cancellation date, and be automatically canceled as of the cancellation date immediately following the end of the insurance period for the crop year. Dissolution is being treated differently than death, disappearance or incompetence because dissolution is controlled by the members of the entity. Therefore, they can control the timing of the dissolution to ensure sufficient time to cancel the existing policy and separately obtain insurance;

(d) Section 3—FCIC proposes to revise section 3(b) to require producers to select the same protection, either yield protection or revenue protection, if available, for all acreage of the insured crop in the county unless one of the exceptions apply. This will protect program integrity by ensuring that producers are unable to manipulate the type of protection on their acreages to ensure the payment of an indemnity. FCIC also proposes to remove the language referring to crops of economic significance because as stated above, any requirement that the producer obtain crop insurance to be eligible for another USDA program benefit will be contained in such programs requirement, not the policy. A provision was also added to specify that high-risk land may be insured under a CAT policy and the other land may be insured under revenue protection. This is to avoid any confusion because revenue protection is not available for CAT policies.

FCIC proposes to revise section 3(c) to clarify that the additional price election is only applicable to crops for which revenue protection is not available. FCIC also proposes to revise sections 3(c) and 3(d) to distinguish between crops for which revenue protection is available and those crops for which it is not regarding the ability to change elections from year to year. This will avoid any confusion. Further, for crops for which revenue coverage is available, provisions have been added to specify what prices will be used to calculate the guarantees, premium, prevented planting payments and replant payments, and value of the production to count.

FCIC is proposing to revise section 3(e) to add provisions to clarify that production reports must be provided annually for multi-year written agreements. This is consistent with the provisions that allow multi-year written agreements.

FCIC is also proposing to amend section 3(f) to restructure it for readability and revise the consequences of misreporting information and not maintaining records. There has been confusion regarding these consequences and FCIC wanted it to be clear that misreporting information and failing to maintain records can both subject the producer to the misreporting provisions in section 6(g). FCIC is also proposing to permit the producer to correct misreported information by the production reporting date without sanctions. This will allow the correction of inadvertent errors. FCIC is also proposing to add provisions that clarify that any time the information used to compute the approved yield is incorrect, the approved insurance provider can correct the approved yield, correct the unit structure, or the producer can be subject to the misreporting provisions in section 6(g)(1). There have been situations where agents or producers have intentionally misreported production information and the policy needs to be very clear the approved yield must be corrected for the crop year and any subsequent crop years the production is in the producer's database, regardless of whether the record retention period has expired.

FCIC is proposing to revise section 3(g) to add a new provision to allow the adjustment of the approved yield when there is no valid basis to support the approved yield. FCIC cannot anticipate every situation of why approved yields may be suspect. This provision is needed to address other potential situations that may arise. FCIC also proposes to remove provisions that specified a producer may be subject to fraud provisions if they do not have supporting records or can not provide a valid basis for an excessive yield. Current provisions clearly state the actions that will be taken, which are either the assignment of a yield in accordance with 7 CFR part 400, subpart G, or the assignment of average yields for the crop or the applicable transitional yield if the producer does not have other yields for the crop.

FCIC is also proposing to add a new section 3(k) that will specify that revenue protection will not be available if there has been a news report, announcement, or other event that

occurs during or after trading hours that is believed by the Secretary of Agriculture or the Administrator of the Risk Management Agency that results in market conditions significantly different than those used to rate or price revenue protection. The use of commodity exchanges is relatively new and, therefore, the impacts of significant external events is not known so it cannot be quantified for the purposes of determining actuarially sound premium rates. However, as demonstrated by the first announced case of bovine spongiform encephalitis in this country, the commodity exchanges can respond significantly and quickly to such events. Given the magnitude of the possible losses, and the uncertainty surrounding the possible frequency of such events, the premium rate load for such losses could be high and make revenue protection unaffordable. FCIC has determined that it would better serve the crop insurance program to eliminate revenue coverage for such years than to make revenue coverage potentially unaffordable to producers in all years.

FCIC is also proposing to add provisions that specify that in the event a projected price cannot be calculated, no revenue protection will be available, a projected price will be established by RMA, and producers who elected revenue protection will automatically have yield protection, unless the policy is canceled by the cancellation date. Without a means to calculate the applicable revenue prices, no coverage could be provided. However, to prevent voidance of the policy and to ensure the continuity of coverage, FCIC has elected to have the policy revert to yield coverage in the event the projected price cannot be determined. In the event that the fall harvest price cannot be calculated by the procedures outlined in the Commodity Exchange Price Provisions the harvest price will be set equal to the projected price. Premium rates will reflect this risk so no adjustment to the premium rates will be made if such action occurs;

(e) Section 4(b)—FCIC proposes to revise the provisions to include the Commodity Exchange Price Provisions as information that may change and which can be viewed on RMA's Web site not later than the contract change date for the crop. Also, FCIC proposes to remove the reference to where RMA's Web site may be found since that information has been included in the definition of "RMA's Web site";

(f) Section 6–FCIC proposes to revise section 6(c)(5) to clarify that the final date the acreage was planted on the unit must be reported on the acreage report for acreage that was planted by the final planting date. FCIC also proposes to require producers to report the date and the amount of acreage planted per day during the late planting period. There have been instances where producers have only reported one of the many dates the acreage was planted and failed to report acreage that may have been planted after the final planting date. This change will avoid this situation and ensure the approved insurance provider can accurately determine the appropriate coverage for all the acreage.

FCIC proposes to revise section 6(d)(2) to clarify that, once prevented planting acreage is reported on the acreage report, the insured cannot change the insured crop or type that was reported as prevented from being planted even though the acreage reporting date may not have passed. However, the insured can revise the acreage report by the acreage reporting date to add additional acreage for the insured crop that is prevented from being planted. The current provisions were interpreted by some to mean that prevented planting acreage could not be added to the acreage report once any prevented planting acreage had been reported even though the acreage reporting date had not passed. This was not the intent of the provision.

In redesignated section 6(d)(3), FCIC also proposes to revise provisions regarding acreage measurement requests by breaking the provisions into separate paragraphs to improve readability. FCIC also proposes to clarify that if a measurement is requested for only part of the acreage in a unit, that this specific acreage be separately identified on the acreage report. This is to eliminate the need to measure a whole unit if only part of the acreage needs to be measured. Further, this is to ensure that the waiver of the misreporting provisions only apply to the acreage for which a measurement was requested.

FCIC also proposes to revise this paragraph to eliminate the conflict regarding whether a claim will be paid before the acreage measurement is received. There has been confusion regarding whether claims must be delayed pending the receipt of a measurement and FCIC has determined that such a delay would pose an undue financial hardship on the producer. However, after the measurement is received, if the acreage is found to be incorrect, the claim, and any premium owed, must be adjusted and any overpayments or underpayments must be paid by the producer or approved insurance provider. FCIC explored the possibility of allowing claims to be paid based on the acreage determined by the approved insurance provider and applying the misreporting provisions but determined that this would unfairly penalize farmers whose measurements have been delayed through no fault of their own. FCIC also explored the possibility of not applying the misreporting provisions but determined that this could lead to producers misreporting information with impunity even if they never really intended to obtain a measurement. FCIC also considered removing the acreage measurement provisions but determined that it met a critical need for some producers on acreage whose characteristics made it difficult to measure without sophisticated tools.

FCIC is also proposing to revise the provisions regarding failure to provide the acreage measurement to require repayment of any claim amount paid for the unit. FCIC determined that it could not apply the sanction in section 6(g) because there is nothing to determine whether the information was incorrect. FCIC also considered denying the claim payment only on the acreage for which the measurement was requested but it is impossible to separate out the production guarantee and production to count for such acreage because these are reported on a unit basis. Because the approved insurance provider would not pay a claim on estimated acreage unless there was the expectation of receiving the correct information from the acreage measurement, there must be a sanction applied for the failure to provide the needed measurement. Since FCIC is unable to determine a different suitable sanction, it is proposing to require repayment of the claim but it is willing to consider alternatives.

In section 6(g)(2), FCIC also proposes to delete the provisions regarding penalties for producers who misreport insurance liability in excess of 10 percent of the actual liability. FCIC has determined that the provision is not necessary because other existing provisions already provide the means to deal with information that is misreported. For example, if a producer under-reports acreage, the insurance liability is held to the amount reported, yet all production from the insurable acreage is counted against the production guarantee. If a producer over-reports acreage, then the insurance liability is held to what the insurance provider determines actually exists. Further, there is no incentive to over-report acreage because the producer must pay premium on the extra liability if there is no claim, and, if there is a claim, it should never be paid for the over-reported liability. The provision was initially implemented because it was thought the penalty would provide

an added incentive for correct reporting. However, comparison of data from a year in which the penalty was applicable and a year in which it was not applicable, suggests it did not improve reporting accuracy. Further, comments received by RMA have indicated the penalty is not in the best interest of the over-all program because it results in unduly harsh penalties to producers who simply make inadvertent errors. RMA will continue to track reporting error rates and, if the error rate is determined to be excessive, it will consider courses of action that may be taken to increase reporting accuracy. RMA welcomes any recommendations regarding alternatives that could be used to improve the accuracy of reported insurance information.

FCIC also proposes to replace the provisions removed from section 6(g)(2) with provisions indicating that if the share is misreported, the production guarantee and amount of insurance will not be revised but either the correct share or the reported share will be used to determine the indemnity depending on which is lower. This provision is necessary because the provisions in section 6(g)(1) provide for adjustment of the production guarantee or amount of insurance when liability is misreported. Share is not included in the computation of the production guarantee or amount in insurance. Instead, for the purposes of clarity, FCIC is simply specifying the consequences for misreporting on the premium and indemnity;

(g) Section 7—FCIC proposes to revise section 7(c)(1) to specify the premium will be calculated by using either the projected price or the price election, as applicable due to the addition of revenue protection in the Basic Provisions. In section 7(d), FCIC also proposes to delete provisions indicating that the premium will be computed using the elected or assigned price election or amount of insurance. These provisions are not necessary because other provisions clearly state that the price used is the price applicable for the current crop year;

(h) Section 8—FCIC proposes to revise section 8(b)(2) regarding written agreements for crops for which the information necessary for insurance is not included in the actuarial documents by providing separate provisions for crops for which revenue protection is and is not available;

(i) Section 9—FCIC proposes to revise section 9(a) to add a new paragraph (2) that clarifies that if a crop has been planted in one of the three previous crop years, the acreage will still not be insurable if such crop is a cover, hay, or forage crop (except corn or sorghum silage). FCIC proposes to create exceptions to allow insurance where permitted by written agreement or the Crop Provisions or the crop to be insured on the acreage is a hay or forage crop. It does not make sense to preclude insurance for the acreage when the crop that was previously produced is the same crop for which insurance is being sought.

FCIC also proposes to revise redesignated section 9(a)(3) and adding an exception for sorghum silage to be consistent with the change proposed in the new section 9(a)(2);

(j) Section 10—In section 10(a), FCIC proposes to clarify that the person completing an application for insurance must have a share in the crop that will be insured. There have been situations where the producer may produce the crop but actually has no risk of loss. For example, the producer contracts with a processor who guarantees a fixed payment regardless of whether the crop is actually produced. In such case, if there are crop losses, such losses are borne by the processor, not the producer, and the producer would not have an insurable share. This change is putting the producer on notice that unless the producer has a risk of loss, insurance will not attach.

FCIC is also proposing to revise section 10(a) to add provisions that would allow parents and children, spouses, or members of the same household to insure each other's share in the same manner as landlords and tenants because, as a practical matter, there is no difference in these situations. There are many instances where family members all farm together even though they have separate insurable interests and it would reduce the burden on all parties if such persons were allowed to insure under one contract. FCIC does not believe it would have any impact on program integrity by allowing one contract to insure all such shares.

FCIC is also proposing to revise section 10(b) to clarify when the acreage or interest of the spouse, child or household member will be included in the insured's share under the policy. FCIC is clarifying that the acreage and share must be combined into one policy unless the spouse can demonstrate that he or she has a separate farming operation. Further, the acreage and share will be combined into one policy unless the child or member of the household can demonstrate they have a separate insurable interest. There has been confusion regarding when spouses, children, and household members are allowed to have separate policies because no guidance was provided in the policy. Further, there may be program vulnerabilities if spouses, children, or household members can insure separately because it could allow producers to increase their benefits over what they would be entitled to under the underlying policy because it would permit separate policies for irrigated and non-irrigated acreage or insuring high-risk land separately from low risk land. This clarification will ensure consistent application of the provisions and eliminate program vulnerabilities;

(k) Section 12—FCIC proposes to add provisions to section 12(d) that would clarify coverage for the inability to prepare the land for irrigation using the producer's established irrigation method (e.g., furrow irrigation) if the inability is due to an insured cause of loss specified in the Crop Provisions. There have been situations where the producer has been unable to prepare the land for irrigation and it has been unclear whether the producer was eligible for a prevented planting payment or indemnity. FCIC has determined that this situation should be covered the same as failure or breakdown of the irrigation equipment or facilities because in each instance, an insurable cause of loss is causing the inability to properly irrigate the crop and it should not make a difference if the cause occurred before or after the installation of the irrigation equipment.

FCIC also proposes to add a new section 12(g) to clarify that although price changes do not have to be caused by natural occurring events, they will not be covered if they are caused by the acts of third persons, such as terrorist attacks or chemical drift. FCIC also proposes to add provisions that would exclude such coverage for yield protection policies and policies where revenue protection is not available. Even though the Act requires losses to be due to natural disasters, when using the Commodity Exchange markets, it is difficult to determine the cause of the price change. To avoid imposing an impossible burden on producers to prove the cause of loss that caused the price change, FCIC determined it would be more appropriate to disallow coverage when the cause of the price change is known to be the act of a third person;

(l) Section 13—FCIC proposes to add provisions to section 13(a) to specify if the crops to be replanted are in a whole-farm unit, the 20 acres or 20 percent requirement is to be applied separately to each crop to be replanted in the whole-farm unit. To require the 20 acre and 20 percent requirement to apply to the entire whole-farm unit could result in the payment of replant payments when only a fraction of each crop is

replanted. This would allow replant payments for the whole-farm unit that would not be permitted for any other type unit.

FCIC also proposes to revise section 13(c) to have the actual costs of replant be the default amount but to allow this amount to be changed in the Crop Provisions or Special Provisions. FCIC is currently in the process of contracting a replant study to determine the appropriate costs of replanting. It is currently a significant burden for approved insurance providers and producers to provide the actual costs of replanting. If the study shows the amount of actual replant costs are consistently higher than the amounts specified in the Crop Provisions, then the Crop Provisions or Special Provisions can be revised to not require the actual cost to replant to be considered;

(m) Section 14—Your Duties—FCIC proposes to restructure the section to improve readability and eliminate duplicate references. FCIC also proposes to add references to revenue protection throughout the section where appropriate to reflect this newly added coverage under the Common Crop Insurance Policy Basic Provisions. In redesignated section 14(b), FCIC proposes to revise the provisions to now require notice the earlier of within 72 hours after the discovery of damage or within 72 hours after the end of the insurance period, regardless of whether the producer has harvested the crop. This change is needed because there may be circumstances where the producer is unable to harvest the crop before the end of the insurance period or even 15 days after. In such case the producer may have no knowledge whether a loss has occurred. Therefore, it would have been impossible for the producer to timely give notice. Now producers will have to give notice not later than 72 hours after the end of the insurance period regardless of whether the producer knows whether there is damage. This will allow the approved insurance provider to timely make any necessary appraisals and determine any insurable damage.

With respect to revenue protection, FCIC also proposes to add provisions requiring the producer give notice of expected revenue loss not later than 45 days after the latest date the last harvest price is released for any crop in the unit. This should provide sufficient time for the producer to discover the harvest price and provide notice. This date is needed because the harvest price may be released after the calendar date for the end of the insurance period.

However, since revenue losses can be caused by loss of production, the producer with revenue protection must still comply with the 72 hour notice requirement pertaining to damage of the crop. Further, FCIC proposes that if the producer fails to comply with these production loss notice provisions, production losses will be considered due to an uninsured cause of loss unless the approved insurance provider is able to accurately determine the amount and cause of the loss. Timely notice of loss is required to allow the approved insurance provider to accurately determine not only the amount of production loss but the cause of loss. Late notices of loss can result in the approved insurance provider being unable to verify the claimed cause of loss. Therefore, these deadlines must be strictly enforced unless the approved insurance provider determines it has the ability to accurately determine the amount and cause of the loss. FCIC also proposes that if timely notice of a production loss is provided, notice of the revenue loss is not required because the approved insurance provider already will know of the potential loss.

FCIC also proposes to restructure the consequences of failing to provide the requisite notice because the failure to comply with the notice provisions was previously contained in the same section as the consequences of failing to comply with other provisions in section 14, which had the capacity to lead to confusion. Now each subsection contains its own obligations and consequences for failing to fulfill those obligations.

FCIC also proposes to add a provision placing the producer on notice of the consequences of failing to obtain the approved insurance providers consent before taking specific actions. The obligation is contained in the Common Crop Insurance Policy Basic Provisions but the consequences are contained in the Crop Provisions. This raises the possibility of an inadvertent conflict so FCIC has included a cross reference to provide greater clarity.

FCIC proposes to revise the claims provisions so all requirements are together and add a provision that states for revenue protection that a claim for indemnity must be submitted declaring the amount of the producer's loss by the later of 60 days after the latest date the harvest price is released for any crop in the unit or 60 days after the latest end of the insurance period date for the unit, unless an extension is requested and granted by the approved insurance provider, to be consistent with the notice requirement for production loss claims.

FCIC also proposes to revise the provisions to specify that the burden of proof is on the producer to prove that he or she has suffered an insurable cause of loss, that this insurable cause of loss damaged the crop, the cause and the loss occurred during the insurance period, and the extent of the damage. Failing to meet any of these requirements will result in denial of the claim;

(n) Section 14—Our Duties—FCIC proposes to add provisions allowing preliminary indemnity payments to be made prior to the release of the harvest price if the producer has not elected the harvest price exclusion option. This will allow for the timely payment of claims and avoid any undue hardship that may result from the delay from the release of the harvest price. Because the policy protects against both price increases and declines and the production to count has already been established, there is no way that preliminary payments could result in overpayment. Therefore, program integrity will not be adversely affected;

(o) Section 15—FCIC proposes to revise section (b)(1) to specify if the producer's claim was settled based on appraised production and the insured later harvested that acreage, if the insured fails to provide the harvested production records, the insured will be required to repay the indemnity. Current provisions require the producer to provide such records but do not state the consequences for failing to do so. FCIC also proposes to revise section (c) to remove the references to Form FCI–78 "Request To Exclude Hail and Fire" because that may not be the name on the form used to exclude hail and fire that is used by insurance providers;

(p) Section 17—FCIC proposes to revise the provisions in section 17(a)(1) to specify that prevented planting payments may be made only on insurable acreage. There have been questions in the past with respect to whether the provisions regarding insurable acreage applied to prevented planting acreage. This provision makes it clear that the insurable acreage provisions are applicable. FCIC also proposes to revise section 17(a)(3) for clarity.

In section 17(b)(4), FCIC also proposes to clarify that prevented planting coverage levels cannot be increased if any cause of loss has occurred. The current provisions specify that prevented planting coverage cannot be increased if there has been a cause of loss that could or will prevent planting. FCIC has found that it may be impossible to make such determinations at the time the producer is seeking to

increase coverage because the approved insurance provider cannot predict whether the cause of loss really would cause prevented planting when other intervening events could change the outcome.

In section 17(d), FCIC proposes to suggest possible resources that can be utilized by approved insurance providers and producers to determine whether the producer has a reasonable expectation of having adequate water to carry out an irrigated practice. The current policy provision imposes this requirement and many questions have arisen regarding what resources to use to make such determinations. Now approved insurance providers and producers will both know the sources of information so there can be consistent application of the requirement. FCIC also proposes to revise provisions regarding the time that a reasonable expectation regarding the adequate water will be determined because such determination is made on the final planting date or during the late planting period. This removed the potential conflict with section 17(d) (redesignated as section 17(d)(1)), which referred to "on the final planting date."

In redesignated section 17(d)(1) and (d)(1)(ii) and new paragraph (d)(2), FCIC proposes to add references to the inability to prepare the land for irrigation using the producer's established irrigation method to be consistent with FCIC's proposed change in section 12 to add such inability as an insured cause of loss. As stated above, such inability is similar to the failure of the irrigation equipment or water supply and should be a covered peril under the policy.

FCIC proposes to move provisions currently in section 17(a)(1) that specify failure to plant when other producers in the area were planting will result in denial of the prevented planting claim to new section 17(d)(2). This change will result in the requirement only applying to causes of loss other than drought, failure of the irrigation water supply, failure of the irrigation equipment or facilities, or the inability to prepare land for irrigation. This change is proposed because under drought conditions some producers may plant in anticipation of receiving adequate precipitation, even though some producers do not plant. Producers should not be penalized because they elect not to take the risk.

In section 17(e), FCIC proposes to eliminate the chart and restructure the provisions used to determine the number of crop acres that are eligible for a prevented planting payment to make them easier to read. In new section 17(e)(1)(i), FCIC proposes to clarify if the producer's APH database contains actual planted acreage in any of the four most recent crop years that producer will be considered to have planted. This makes it clear in cases where the specific producer did not actually plant acreage in any of the four most recent crop years but approved APH procedures allow that producer to use someone else's planted acres in his or her database, that producer will be considered to have planted and will not be eligible to submit an intended acreage report. This is to remove the ambiguity regarding the situation where producers may not have planted the acreage but acquired the acreage for the current crop year and 7 CFR part 400, subpart G authorizes the producer to use the history from that other acreage in his or her own APH database.

Also, FCIC proposes to add provisions to section 17(e)(1) that would allow the producer to add or allow eligible irrigated prevented planting acres when a producer adds acreage to the farming operation that already contains irrigation facilities or the producer adds irrigation equipment to acreage that previously was non-irrigated. Under the current provisions, if the producer had no irrigated acreage the previous year, the producer was not eligible for prevented planting for an irrigated practice even if the producer had purchased or leased land with irrigation facilities. Further, there have been questions regarding whether producers could increase their eligible prevented planting acreage for an irrigated practice if the producer simply elected to add irrigation facilities to existing acreage. FCIC determined that there is no reason to deny prevented planting for the irrigated practice when the producer can demonstrate that the producer had the irrigation equipment available to irrigate all the acreage. However, the provisions that prorate the new irrigated land to the insurable crop will still be applicable. Further, the provision regarding the reasonable expectation of water will still apply and may limit the irrigated acreage eligible for prevented planting.

In new section 17(e)(1)(ii), FCIC proposes to allow a producer to submit an intended acreage report after the sales closing date provided the intended report is submitted within 10 days after the new acreage is obtained and no cause of loss has occurred. This is to allow prevented planting coverage for acreage acquired after the sales closing date provided it would have been possible to plant the acreage using good farming practices and no cause of loss that may prevent planting has occurred at the time the producer acquired the acreage.

In section 17(f)(1), FCIC proposes to clarify that the requirement that prevented planting acreage constitute at least 20 acres or 20 percent of the insurable crop acreage in the unit applies on an individual crop basis when there is a whole-farm unit. This is consistent with proposed changes for a replanting payment when there is a whole-farm unit.

In section 17(f)(4), FCIC proposes to remove provisions requiring the insured producer to provide information regarding prevented planting payments previously made to another producer because it is not always practical for an insured producer to access or obtain such records. FCIC also proposes to revise provisions regarding double-cropping records so producers will be required to prove they have double cropped in past years when the second crop for which prevented planting is being claimed was grown. The current provisions require records of double cropping in past years when the first crop that was prevented from being planted was grown, even though it is the subsequent (second crop that is prevented from being planted) crops prevented planting eligibility that is being determined.

In section 17(f)(6), FCIC proposes to clarify that cover or volunteer crops that are in place longer than twelve months prior to the final planting date for the insured crop will be considered to be a pasture or forage crop and will result in no prevented planting payment if such crop is still in place when planting of the insured crop would normally take place. The purpose of section 17(f)(6) was to preclude prevented planting payments for acreage where there is no indication the producer ever intended to plant the acreage. This change will remove the ambiguity regarding the period for which the crop must be in place to distinguish between cover crops and pasture or other forage crops.

In section 17(f)(9), FCIC proposes to clarify the provisions that state that the producer is presumed to have adequate inputs to plant a crop if the producer has previously planted the crop. There have been instances where producers have claimed prevented planting when they had planted the crop the previous year but in the interim they have otherwise disposed of their necessary inputs, such as selling their equipment. There are questions whether the existing presumption would override the language requiring proof of the necessary inputs to allow the producer to collect a prevented planting payment. This change resolves those questions

and removed the presumption when there is evidence the producer would be unable or did not intend to plant the crop.

In sections 17(h) and (h)(1), FCIC also proposes to add provisions indicating a prevented planting payment may not exceed the amount payable for the crop that was prevented from being planted when the crop has no remaining prevented planting eligible acres and another crop's eligible prevented planting acreage is used. Further, if a crop with a higher prevented planting payment is prevented from being planted, and the remaining base acres are for a crop with a lower prevented planting payment, the additional acres claimed for prevented planting for the crop with the higher prevented planting payment would be paid based on the crop with the lower prevented planting payment. This change is necessary to protect program integrity by not allowing the prevented planting payment to exceed the amount that would have been paid for the crop that was actually prevented from being planted. This will prevent producers from manipulating their claimed prevented planting acres to maximize a prevented planting payment when it is not supported by the planting history. The following examples illustrate the effect of the proposed change. A producer claims 200 acres of corn have been prevented from being planted. The producer has 100 acres eligible for corn prevented planting that would result in a payment of $40 per acre and 100 potato acres eligible for potato prevented planting that would result in a payment of $100 per acre. In such case, the producer will receive a prevented planting payment based on the 100 eligible corn acres and the 100 eligible potato acreage but all 200 acres will be paid at $40. In another example, a producer claims 300 acres of potatoes have been prevented from being planted. The producer has 100 acres eligible for potato prevented planting that would result in a payment of $100 per acre, 100 acres eligible for corn prevented planting that would result in a payment of $40 per acre, and 100 acres eligible for wheat prevented planting that would result in a payment of $25 per acre. In such case, the producer will receive a prevented planting payment based on the 100 eligible potato acres at $100 per acre, the 100 eligible corn acreage at $40 per acre, and the 100 eligible wheat acres at $25 per acre.

In section 17(h)(2), FCIC also proposes to remove provisions indicating that no payment may be made on an irrigated basis when a non-irrigated crop is prevented from being planted. The intent of these provisions was to prevent producers from receiving prevented planting payments higher than the amount to which they were entitled based on the crop that was actually prevented from being planted. These provisions are no longer necessary because of the above stated proposed changes to limit the prevented planting payment.

In section 17(i), FCIC proposes to restructure the provisions and include language related to the projected price for revenue policies. Without this language, it would be unclear what price would be used to calculate prevented planting payments;

(q) Section 18—FCIC proposes to revise section 18(c) to specify that a projected price and harvest price as provided for in the Commodity Exchange Price Provisions, as applicable, or price election or amount of insurance, as applicable, must be included in the written agreement. The provision is also proposed to be revised to specify how prices are to be determined for crops for which revenue protection is not available, and for crops for which revenue protection is available and selected or yield protection is selected. A written agreement will not be approved by FCIC if an appropriate projected price, price election, or amount of insurance, as applicable, cannot be provided for the crop. This is to protect program integrity by preventing the over or under insurance of a crop when the appropriate price cannot be determined.

FCIC also proposes to revise the provisions in section 18(e)(2)(i) to provide discretion when an inspection may be required because there are situations when the crop may not even have been planted when the inspection is to have occurred. FCIC also proposes to revise the provisions to recognize situations in which multiple appraisals may be required or the expiration date for the written agreement occurs before a required inspection. The proposed provisions require the producer to sign the written agreement on the day the first field is appraised or by the expiration date, which ever comes first.

FCIC also proposes to revise section 18(e)(2)(ii) to include reference to the time a written agreement request must be submitted to insure a practice, type or variety where there are no actuarial documents for the practice, type or variety.

FCIC proposes to revise section 18(f)(1)(iv) to include the common land unit number because such a unit of measure may be used when FCIC and the Farm Service Agency develop their common reporting system.

FCIC proposes to revise section 18(f)(2)(i) by adding the requirement that the submitted APH form be signed by the producer because it is necessary the producer certify to the correctness of the information being provided. FCIC also proposes to add a new section 18(g)(4) that will specify that written agreements will only be accepted if they are authorized by the policy. This will make it very clear that written agreement requests will only be accepted to modify those policy provisions that state that they may be modified by written agreement.

FCIC also proposes to add a new section 18(o) to clarify that if an insured disagrees with any determination made by FCIC regarding a written agreement, the insured may obtain an administrative review in accordance with 7 CFR part 400, subpart J or appeal in accordance with 7 CFR part 11, unless the insured failed to comply with the provisions contained in section 18(g) or section 18(i)(2) or (3). This provision is necessary because it was unclear what administrative appeal rights were available to the producer and under what circumstances the producer could exercise those rights;

(r) Section 20—For FCIC Policies—FCIC proposes to revise the provisions in section 20(b)(1) to specify that any determination made by FCIC under section 18(g), section 18(i)(2) or (3), or section 20(b)(2) is not subject to either administrative review under 7 CFR part 400, subpart J or appeal under 7 CFR part 11. This revision is necessary to eliminate any conflict between the provisions contained in section 18 and section 20 regarding which determinations made by FCIC are subject to administrative review or appeal.

In redesignated section 20(d), FCIC proposes to revise the provisions to clarify that a producer does not have to exhaust reconsideration rights before filing suit. This change is to ensure consistency with section 508(a)(3)(B) of the Act. Statutorily, producers have the choice of seeking an informal administrative appeal or bringing suit;

(s) Section 20—For Reinsured Policies—FCIC proposes to revise the provisions in section 20(d) to clarify a producer does not have to exhaust reconsideration rights before filing suit. This is to avoid any ambiguity regarding the effects of section 508(a)(3)(B) of the Act on whether producers are required to exhaust informal administrative appeals. The provisions are also changed so that all determinations regarding good farming practices will be made by FCIC. This change is made to ensure that the good farming practice

determination can only be reversed or modified during judicial review if the determination is arbitrary or capricious. Under the previous provisions, it was unclear who was making this determination but this proposed rule is making it clear that FCIC is making the determination that may be judicially appealed.

FCIC proposes to revise the provisions of section 20(e) to specify that any determination made by FCIC under sections 18(n), 18(o) or 20(d) is not subject to either administrative review under 7 CFR part 400, subpart J or appeal under 7 CFR part 11. This revision is necessary to eliminate any conflict between the provisions contained in section 18 and section 20 regarding which determinations made by FCIC are subject to administrative review or appeal.

FCIC also proposes to revise section 20(j) by removing the reference to FCIC's election to participate in the adjustment of a claim. Such language is not necessary because the right to appeal is based on whether FCIC modifies, revises or corrects the claim, not whether it elected to participate;

(t) Section 21—FCIC proposes to revise section 21(b)(2) to clarify the example regarding the length of time production records must be kept. The new example clearly illustrates the situation in which a producer initially certifies several years of records and then certifies the most recent year's production records for the subsequent crop year. FCIC also proposes to add a new section 21(b)(3) to specify yields that are knowingly misreported may be adjusted, regardless of whether the record retention period has expired.

(u) Section 28—FCIC proposes to revise the provisions by breaking them into paragraphs to improve readability. FCIC also proposes to revise the provisions to allow insurance coverage to be transferred when a person's share is transferred after the sales closing date, but before insurance attaches to a crop. There have been questions regarding the transfer of coverage before the crop has been planted and before coverage has attached. To clarify this situation, FCIC is proposing to allow the transfer of a right to coverage in this situation. The other provisions have been revised to be consistent with this proposed change. FCIC also proposes to clarify that coverage levels, approved yields and prices continue to apply to the transferred coverage and that no indemnity will exceed the liability otherwise owed under the policy. This is to prevent the transfer of coverage to be used as a means to increase liability or coverage under the policy. FCIC also proposes to clarify provisions regarding joint and several liability to limit such liability to the coverage that has been transferred. For example, a producer transfers coverage on 20 acres in a 100 acre unit. The transferee would only be jointly and severally liable for the premium on the 20 acres, not the whole unit;

(v) Section 29—FCIC proposes to restructure section 29 to make the provisions more readable. FCIC also proposes to add provisions to limit the assignments to the producer's legitimate creditors because there have been instances where producers have assigned the indemnity to family members or other people to whom no money was owed. FCIC also proposes to require that all assignments must be provided to the approved insurance provider on their form and that only one assignment form will be accepted for each crop. FCIC also proposes to add provisions to make it clear that the approved insurance provider will not be liable for more than 100 percent of the indemnity that is owed under the policy. FCIC also proposes to add provisions that clarify that no liens will be honored unless there is an assignment of indemnity to the lienholder. There have been instances where lienholders without assignments have sought to enforce their liens against the approved insurance providers and have prevailed even though section 509 of the Act precludes liens on the indemnity before it is provided to the producer;

(w) Section 30—FCIC proposes to remove the provisions in section 30 and reserve the section because there are no instances where the producer would have a right of subrogation against a third person where the loss would be covered under the policy. The policy only covers naturally occurring events or changes in prices established through commodity markets, which cannot be caused by a third person. To be consistent with other policy provisions, in cases where a third person causes the loss, claims should be denied or if already paid, they should be repaid by the producer;

(x) Section 34—FCIC proposes to clarify section 34(a)(1) by specifying the election for an enterprise or whole-farm unit must be made by the earliest sales closing date for any insured crop in the unit. The current provisions indicate the election must be made by the earliest sales closing date for the insured crops and questions have been raised whether this means only the insured crops in the unit or all insured crops. Since an enterprise unit is made up of only one crop in the county, its sales closing date will control regardless of whether another crop is produced on the farm with an earlier sales closing date. However, with respect to the whole-farm unit, the crop with the earliest sales closing date in the unit will control and the election for the whole-farm unit must be made at that time.

FCIC also proposes to revise section 34(a)(2) to add the provisions that enterprise units must be comprised of one or more basic units in separate sections or section equivalents that were previously in the definition of enterprise units because such provisions were considered substantive in nature. FCIC also proposes to add a new paragraph (ii) that specifies that both winter and spring types of the same insured crop cannot be included in the same enterprise unit. Both spring and winter types cannot be included in the same enterprise unit because it would delay the payment of any claim until any losses could also be determined for the spring types. This would impose an undue hardship on producers. Further, spring and fall types have separate acreage reporting dates and prices. This would make it difficult to establish the revenue protection guarantees or premium until such information is available for the spring variety. Separate enterprise units are permitted for each type.

FCIC also proposes to revise the requirement that producers provide records applicable to the basic or optional unit to make it clearer that separate records only need to be maintained if the producer intends to insure the acreage as an optional unit or basic unit in the following crop year.

FCIC also proposes to remove the provisions in section 34(a)(2)(iv) because the revised provisions in section 34(a)(2) provide the only basis for enterprise units. Therefore, this language is redundant.

FCIC also proposes to remove the statement that the discount contained in the actuarial documents will only apply to acreage in the enterprise unit that has been planted. This statement actually applies to basic, enterprise and whole-farm units and the provisions for all these unit structures need to reflect that the applicable discount only applies to planted acreage. Therefore, the provision is being moved to a newly added section 34(f). Discounts do not apply to prevented planted acreage because such acreage is considered separately from planted acreage, including the payment of indemnities.

FCIC also proposes to include provisions requiring the producer to separately designate on the acreage report each basic unit and each section

or other means used to qualify for an enterprise unit. This requirement is necessary to determine if the acreage qualifies for the enterprise unit structure and to allow approved insurance providers to establish the basic unit structure in the event the producer does not qualify for the enterprise unit.

In section 34(a)(3), FCIC proposes to remove the provision requiring producers to report the optional units on the acreage report. The number or type of optional units underlying the whole-farm unit was never applicable to the eligibility for a whole-farm unit. All that matters is the number of crops and their percentage relationship to the total liability for the whole-farm unit. Therefore, this provision adds unnecessary paperwork for the producer and agent. However, the requirement to designate each basic unit is retained to allow approved insurance providers to determine the appropriate basic units should it be determined that the producer does not qualify for a whole-farm unit.

FCIC proposes to add provisions to specify a whole-farm unit must contain insurable planted acreage of at least two crops and at least two of the insured crops must each constitute 10 percent or more of the total liability of all insured crops in the whole-farm unit. These provisions were previously in the definition of whole-farm unit but since they are substantive, they are more appropriately included here. FCIC also proposes to add the provisions that preclude fall and winter types of the insured crop from being included in the whole-farm unit. The same timing issues apply to whole-farm units as are discussed above with enterprise units.

FCIC also proposes to add an example for situations where the acreage is not eligible for a whole-farm unit and it is separated into the basic units.

FCIC also proposes to revise provisions in section 34(c)(1) to allow land that is described by other means (such as metes and bounds) to qualify for optional units in accordance with FCIC approved procedures. Previously such acreage was only insurable by written agreement but FCIC has determined that it can establish procedures that will be easy to administer and applied in a fair and consistent manner; and

(y) Section 35—FCIC proposes to restructure the provisions for clarity and add provisions specifying how to determine the amount of the actual loss for crops with and without revenue protection. The previous provisions referred to the fair market value of the insured commodity, the production records, and price elections. However, it did not explain how this information would be used, and fair market value is generally not a term that is used to determine the value of the crop before or after a loss. Therefore, FCIC has redrafted the provision to specify exactly how the actual amount of the loss is determined and how to calculate the value of the crop before and after a loss.

FCIC also proposes to add a new section 35(d) that informs the producer that failure to obtain crop insurance may impact the producer's ability to obtain benefits under other USDA programs and the producer should contact any USDA agency from which the producer wishes to obtain benefits to determine eligibility requirements. The Agricultural Assistance Act of 2003 eliminated the permanent linkage between crop insurance payments and other farm program benefits. Now FSA will determine whether linkage applies based on the requirements of the farm programs.

6. Basis for Specific Changes to the Small Grains Crop Insurance Provisions

The proposed changes are as follows:

(a) Section 3—FCIC is proposing to add a new section 3(a) to specify that revenue protection is not available for the producers' oats, rye, flax, or buckwheat. Therefore, if the producer elects to insure such crops by the sales closing date, they will only be protected against a loss in yield. Those crops were previously insured only with APH. Since revenue protection is not available for these crops, they will continue to use price elections as specified in the new sections 3(a)(1) and (2). FCIC is also proposing to add a new section 3(b) to specify that, since revenue coverage is available for wheat and barley, the producer must elect to insure wheat or barley with either revenue protection or yield protection by the sales closing date. Wheat was previously insured under APH, CRC, RA and IP. Barley was previously insured under APH, RA and IP. FCIC is also proposing to correct the price references for wheat and barley to use projected price and harvest price. This is necessary because wheat and barley will no longer use price elections. If the producer elects yield protection, the price used to determine both the value of the production guarantee and the value of the production to count for indemnity purposes will be the projected price. If the producer elects revenue protection, the higher of the projected price or the harvest price is used to calculate the production guarantee, unless the harvest price exclusion option is selected, and the harvest price is used to value the production to count. FCIC is proposing to add a new section 3(b)(2) to specify the projected price and harvest price for each type must have the same percentage relationship to the maximum projected price and harvest price. FCIC is also proposing to add a new section 3(b)(3) to specify that in counties with both fall and spring sales closing dates for the insured crop: (1) If the producer does not have any insured fall planted acreage of the insured crop, the producer may change the coverage level, percent of projected price and harvest price, or elect revenue protection or yield protection until the spring sales closing date; or (2) if the producer has any insured fall planted acreage of the insured crop, the producer may not change the coverage level, percent of projected price and harvest price, or elect revenue protection or yield protection after the fall sales closing date. This provision would only affect wheat and barley because they are the only small grain crops that may be planted in the fall and have spring sales closing dates;

(b) Section 5—FCIC is proposing to amend section 5 to specify: (1) All Nebraska counties for wheat except Box Butte, Dawes, and Sheridan will have a September 30 cancellation date and a September 30 termination date; and (2) Box Butte, Dawes, and Sheridan counties, Nebraska, will have a September 30 cancellation date and a November 30 termination date. This change is needed to make the dates for these three counties consistent with other counties where both winter and spring wheat are insured. FCIC is also proposing to change the wheat cancellation dates and termination dates for Roosevelt and Valley Counties, Montana, from September 30 and November 30 to March 15 and March 15, respectively. This change is needed because almost all wheat planted in these counties is spring wheat and it is no longer necessary to provide actuarial materials specifically for winter wheat;

(c) Section 6—FCIC proposes to add a new paragraph (a)(5) to specify that buckwheat will be insured only if it is produced under a contract with a business enterprise equipped with facilities appropriate to handle and store buckwheat production and to specify the terms that must be included in the contract. This change is necessary to protect program integrity by ensuring there is a market for insured production before coverage is provided;

(d) Section 7—FCIC is proposing to revise the introductory text in section 7 to be consistent with the format of other similar Crop Provisions. FCIC is also

proposing to revise subsection (a)(2) by dividing subparagraphs (iii) and (v) into clauses for clarity. FCIC is also proposing to replace "and price election" with ", projected price, and harvest price" in both subparagraphs because these subparagraphs are only referring to barley and wheat, which may be insured under revenue protection so a price election is not applicable;

(e) Section 8—FCIC is proposing to revise the introductory text of section 8 to be consistent with the format of other similar Crop Provisions. In section 8(h), FCIC is proposing to clarify that failure of the irrigation water supply that occurs during the insurance period is a covered cause of loss if such failure is due to a cause of loss specified in the Crop Provisions. Previously the provision only stated failure of the irrigation supply was covered and did not have any qualifiers, which could have been interpreted to extend beyond the named perils. Now the provision is consistent with other Crop Provisions and ensures that only named perils are covered under the policy. Also, FCIC is proposing to add a new section 8(i) that specifies that a decline in the harvest price below the projected price is an insured cause of loss to allow for revenue protection;

(f) Section 9—FCIC is proposing to revise section 9(c) to specify that oats, flax, and buckwheat will use a "price election" and wheat and barley will use a "projected price" in the computation of any replant payment. FCIC also proposes to revise the format to make the provision easier to read;

(g) Section 10—FCIC is proposing to revise section 10 to be consistent with the format of other similar Crop Provisions. FCIC is also proposing to revise section 10 to remove those provisions regarding representative samples that are now incorporated into section 14 of the Common Crop Insurance Policy Basic Provisions;

(h) Section 11—FCIC is proposing to revise section 11(b) regarding the method used to compute a claim to provide separate calculations for claims that are based on yield protection from those that are based on revenue protection and adding an example. This change is necessary because yield protection only measures the change in the production and values the production guarantee and production to count at the same projected price. However, revenue protection measures both the change in production and the change in price and different prices may be used to determine the value of the guarantee (i.e., higher of the projected or harvest price) and the production to count (i.e., the harvest price); and

(i) Section 13—FCIC is proposing to remove the reference to limited level of coverage in section 13(b) since it is no longer applicable.

7. Basis for Specific Changes to the Cotton Crop Insurance Provisions

The proposed changes are as follows:

(a) Section 2—FCIC is proposing to add a new section 2(a) to specify that the producer must elect to insure cotton with either revenue protection or yield protection by the sales closing date. Cotton was previously insured under APH, CRC, RA, and IP. In redesignated section 2(b), FCIC is also proposing to correct the price references to use projected price and harvest price. This is necessary because cotton has revenue protection available so it will no longer use price elections. If the producer elects yield protection, the price used to determine both the value of the production guarantee and the value of the production to count for indemnity purposes will be the projected price. If the producer elects revenue protection, the higher of the projected price or the harvest price is used to calculate the revenue production guarantee, unless the harvest price exclusion option is selected, and the harvest price is used to value the production to count;

(b) Sections 3, 4, 6, and 7—FCIC is proposing to revise the format of sections 3, 4, 6, and 7 to be consistent with other similar Crop Provisions. This will make the provisions easier to read;

(c) Section 5—FCIC is proposing to revise the format to be consistent with other similar Crop Provisions. FCIC is also proposing to remove section 5(b)(5) and revise section 5(b)(4) to specify, unless allowed by the Special Provisions or by written agreement, cotton will not be insured if it is grown on acreage following a small grain crop or harvested hay crop in the same calendar year unless the acreage is irrigated. Previously, cotton grown on non-irrigated acreage following a small grain crop that had 50 percent or more of the small grain plants reach the heading stage was not insurable. However, this provision could not be administered effectively. In most instances, it is impossible to accurately determine if 50 percent of the plants reach the heading stage, especially if the small grains were grazed. The key issue is the availability of soil moisture for the cotton crop and it was determined that as a practical matter, there is insufficient soil moisture unless the crop is irrigated. In those instances where the producer feels there is sufficient moisture, the producer can seek a written agreement;

(d) Section 8—FCIC is proposing to revise the format of section 8 to be consistent with other similar Crop Provisions. In section 8(h), FCIC is also proposing to clarify that failure of the irrigation water supply that occurs during the insurance period is a covered cause of loss if such failure is due to a cause of loss specified in the Crop Provisions. Previously the provision referred to an unavoidable cause of loss, which could have been interpreted to extend coverage beyond the named perils. Now the provision is consistent with other Crop Provisions and ensures that only named perils are covered under the policy. Also, FCIC is proposing to add a new section 8(i) that specifies that a decline in the harvest price below the projected price is an insured cause of loss to allow coverage for revenue protection;

(e) Section 9—FCIC is proposing to revise section 9 to be consistent with the format of other similar Crop Provisions. FCIC is also proposing to revise section 9(a)(2) by redesignating it as 9(b) and removing those provisions regarding representative samples that are now incorporated into section 14 of the Common Crop Insurance Policy Basic Provisions. FCIC is also proposing to remove section 9(b) and adding that provision to section 9(a);

(f) Section 10—FCIC is proposing to revise section 10(a) to clarify that the required records of production to qualify for unit division must be acceptable to the approved insurance provider. This makes the provision consistent with section 10(a)(1), which refers to the consequences if acceptable records of production are not provided. Acceptable records are required because they must be of a type that would permit the approved insurance provider to independently verify the information. If the information cannot be verified, approved insurance providers have no way of knowing whether the production reported is accurate. FCIC is also proposing to revise section 10(b) regarding the method used to compute a claim to provide separate calculations for claims that are based on yield protection from those that are based on revenue protection and adding an example. This change is necessary because yield protection only measures the change in the production and values the production guarantee and production to count at the same projected price. However, revenue protection measures both the change in production and the change in price and different prices may be used to determine the value of the guarantee

(i.e., higher of the projected or harvest price) and the production to count (i.e., the harvest price). FCIC also proposes to revise section 10(d) to change the percentage of price quotation "B" from 75 percent to 85 percent. Based on input from the cotton industry and insurance providers, FCIC determined that 85 percent of price quotation B more accurately reflects the correct threshold for quality adjustment eligibility. The Special Provisions for cotton have been used to establish the 85 percent threshold in all counties with a cotton program since the 2000 crop year. Also, FCIC proposes to revise section 10(d) to remove the reference to the "Daily Spot Cotton Quotation published by the USDA Agricultural Marketing Service" and replace it with the "Upland Cotton Warehouse Loan Rate published by FSA" because the Upland Cotton Warehouse Loan Rate will provide producers, the crop insurance industry, and other interested parties with a more uniform pricing methodology for insurance coverage purposes; and

(g) Section 11—Remove the reference to limited level of coverage since it is no longer applicable.

8. Basis for Specific Changes to the Coarse Grains Crop Insurance Provisions

The proposed changes are as follows:

(a) Section 1—FCIC proposes to revise the definition of "planted acreage" to specify that corn must be planted in rows far enough apart to permit mechanical cultivation only if the specific farming practice the producer uses requires mechanical cultivation to control weeds. In most cases, the current requirement that corn must be planted in rows far enough apart to permit mechanical cultivation is outdated because most corn producers who use conventional farming practices use herbicides or Round Up Ready Corn seed and then spray with Round Up herbicide to control weeds. Therefore, cultivation is no longer necessary. The definition will specifically require that producers plant corn in rows far enough apart to permit mechanical cultivation if mechanical cultivation is the required method of weed control for a particular farming practice utilized by a producer. For example, producers who use organic farming practices may need to cultivate between the corn rows to control weeds, since use of conventional herbicides for weed control and Round Up Ready Corn seed may be prohibited under the National Organic Program. FCIC is also proposing to revise the definition of "production guarantee (per acre)" by removing the phrase "approved actual production history (APH) yield per acre, calculated in accordance with 7 CFR part 400, subpart G" and replacing it with the term "approved yield per acre." This change makes the definition consistent with the definition of "production guarantee (per acre)" contained in the Common Crop Insurance Policy Basic Provisions and removes the redundancy between the definitions. This is a technical matter and the actual meaning of the term is not changed;

(b) Section 2—FCIC is proposing to add a new section 2(a) to specify that the producer must elect to insure corn, grain sorghum, or soybeans with either revenue protection or yield protection by the sales closing date. Corn planted for grain was previously insured under APH, CRC, IP, IIP, and RA. However, the current APH corn policy also covers corn silage. Since the current APH corn policy covers both corn grain and corn silage, FCIC proposes to allow corn silage to be covered under revenue protection even though corn silage is not traded on any Commodity Exchange. To accomplish this, the projected price for corn silage will be established by FCIC in accordance with the Commodity Exchange Price Provisions and the harvest price will be set equal to the projected price. With both types of corn insured under revenue protection, the producer may qualify for a whole-farm unit. However, corn insured as silage will not have the benefit of coverage for an increase or decrease in the expected market price. In redesignated sections 2(b) and (c), FCIC is also proposing to correct all price references to use projected price and harvest price. This is necessary because all the coarse grain crops have revenue protection available so they will no longer use price elections. If the producer elects yield protection, the price used to determine both the value of the production guarantee and the value of the production to count for indemnity purposes will be the projected price. If the producer elects revenue protection, the higher of the projected price or the harvest price is used to calculate the revenue production guarantee, unless the harvest price exclusion option is selected, and the harvest price is used to value the production to count. FCIC is also proposing to remove current section 2(b), which stated if a producer harvests the corn crop in a manner other than reported (e.g., reported grain but harvested silage) a price election for the harvested type would be assigned for the purpose of determining the dollar value of production to count for the type of production harvested. This provision is no longer necessary due to the change proposed in section 10 that specifies that if a producer intends to harvest in a manner other than reported, the producer must notify the approved insurance provider before harvest begins. This will allow the insurance provider to appraise the crop based on the type insured, rather than using the type harvested;

(c) Section 3—FCIC is proposing to revise the format in section 3 to be consistent with other similar Crop Provisions;

(d) Section 4—FCIC is proposing to revise the cancellation and termination dates from January 15 to January 31 for corn and grain sorghum for certain Texas counties to be consistent with the changes required by the Consolidated Appropriations Act (H.R. 3194) for fiscal year 2000, which mandated that sales closing dates for any spring planted crop be not earlier than January 31. Also, FCIC is proposing to revise the cancellation and termination dates from February 15 to January 31 for soybeans for certain Texas counties because agronomic conditions in those counties allow producers to plant corn prior to the current February 15 date. To the maximum extent practical, sales closing, termination, and cancellation dates are usually the same date and set sufficiently ahead of time to prevent adverse selection from producers potentially having knowledge of growing conditions when they elect whether to continue their insurance coverage. Further, maintaining the same dates eliminates unnecessary administrative burdens on the approved insurance providers, agents and producers who have to track and comply with such dates;

(e) Section 5—FCIC is proposing to revise section 5(b)(2) to specify that high oil corn blends containing mixtures of at least 90 percent high yielding yellow dent female plants with high-oil male pollinator plants, or commercial varieties of high-protein hybrids are insurable. In the past, high oil or high protein corn was only insurable by written agreement because previous data suggested these varieties did not yield as high as insurable varieties. However, FCIC has reviewed data on newer seed varieties that have been developed and determined that the specified high oil and high protein corn varieties have comparable yields to other insured corn varieties and can be insured under the standard corn rates and coverage, without the need for a written agreement;

(f) Section 7—FCIC is proposing to revise section 7 to be consistent with the format of other similar Crop Provisions.

Also, in section 7(b), FCIC proposes to revise the calendar date for the end of the insurance period for corn insured as silage from September 30 to October 20 for Connecticut, Delaware, Idaho, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New Mexico, New York, Oklahoma, Oregon, Pennsylvania, Rhode Island, Texas, Vermont, Washington and West Virginia. Crop insurance covers the crop for the period that it is in the field. Therefore, the end of the insurance period needs to correspond with the time harvest is normally completed, and most corn producers in the above listed states do not normally complete harvesting silage production until October 20. The other states in section 7(b) will have the same September 30 end of the insurance period;

(g) Section 8—Revise to be consistent with the format of other similar Crop Provisions. In section 8(h), FCIC is also proposing to clarify that failure of the irrigation water supply that occurs during the insurance period is a covered cause of loss if such failure is due to a cause of loss specified in the Crop Provisions. Previously the provision referred to an unavoidable cause of loss, which could have been interpreted to extend coverage beyond the named perils. Now the provision is consistent with other Crop Provisions and ensures that only named perils are covered under the policy. Also, FCIC is proposing to add a new section 8(i) that specifies that a decline in the harvest price below the projected price is an insured cause of loss to allow coverage for revenue protection;

(h) Section 9—FCIC is proposing to revise section 9 to be consistent with the format of other similar Crop Provisions. FCIC is also proposing to revise section 9(a) to make inapplicable the provisions in section 13 of the Common Crop Insurance Policy Basic Provisions that limit the amount of a replant payment to the producer's actual cost. FCIC has reviewed the costs associated with replanting the coarse grain crops and determined that only in rare instances were the actual costs less than the amount determined in accordance with section 13 of the Common Crop Insurance Policy Basic Provisions. This meant there was a large administrative burden associated with obtaining receipts from the producer to prove costs with little effect on payment amounts. FCIC is currently in the process of contracting a replant study. Based on the results of the study, FCIC will propose to remove the limit of the producer's actual cost of replanting for other crops that the study shows the actual cost of replanting is rarely less than the maximum payment amount allowed by the Crop Provisions.

FCIC is also proposing to remove section 9(c), which allows the person who incurs the total cost of replanting to receive a replanting payment based on the total shares insured when more than one person insures the crop on a share basis. To make the provision work, FCIC required that the two producers with a share in the crop be insured with the same approved insurance provider before the producer incurring all the costs could receive the replant payment. This was necessary to allow the approved insurance provider to track the payments to ensure that not more than 100 percent of the replant payment was paid out (e.g., the tenant received a 100 percent replant payment from one approved insurance provider and the landlord received a 50 percent replant payment from another approved insurance provider). FCIC also required that both producers insure with the same approved insurance provider to ensure that the approved insurance provider making the 100 percent replant payment received 100 percent of the premium associated with replant payments (e.g. if producers with 50 percent shares insure with two approved insurance providers, each approved insurance provider would receive 50 percent of the premium associated with the replant payments). Subsequently, FCIC received complaints that this resulted in disparate treatment based on where the producers were insured because producers that insured with different approved insurance providers could not receive 100 percent of the replant payment even if they incurred 100 percent of the costs. FCIC has examined other means to allow the producer who incurs 100 percent of the replant costs to receive a 100 percent replant payment but has not found one that is administratively feasible. While FCIC has proposed to remove the provision, FCIC is seeking comments on alternative proposals that will allow FCIC to retain the provision and still address the concerns raised above.

Also, FCIC is proposing to add a new section 9(d) stating that replanting payments will be calculated using the projected price and production guarantee for the crop type that is replanted and insured. There have been instances where producers have replanted a different insured crop type that has different yields and prices than the type originally planted. This could result in the crop being over-insured or under-insured if the production guarantee and prices were based on the crop type originally planted. Instead, FCIC has proposed to add provisions to ensure that the production guarantee and replanting payment are based on the yield and prices for the type that is replanted. A revised acreage report will be required to reflect the replanted type, as applicable;

(i) Section 10—FCIC is proposing to revise section 10 to be consistent with the format of other similar Crop Provisions. FCIC is also proposing to revise section 10(a) to remove those provisions regarding representative samples that are now incorporated into section 14 of the Basic Provisions. Also, FCIC is proposing to revise section 10(b)(1) to change the reference to "not later than 15 days after the end of the insurance period" to "not later than 72 hours after the end of the insurance period" to be consistent with the change proposed in redesignated section 14(b) of the Basic Provisions. FCIC is also proposing to revise section 10(b)(2) to specify that if the producer has a unit in which both silage and grain are insured with different ends of the insurance period, for the purposes of the provision contained in section 14 of the Common Crop Insurance Policy Basic Provisions, which requires claims for indemnities to be submitted not later than 60 days after the end of the insurance period, the end of the insurance period is the latest end of the insurance period for the unit. As currently drafted, this provision was intended to apply in those limited situations where there is more than one end of the insurance period applicable to the unit but it could be interpreted to eliminate all the requirements of section 14(c) of the Common Crop Insurance Policy Basic Provisions. The revision makes very clear the limited scope of the provision and leaves the rest of the provisions in section 14 of the Common Crop Insurance Policy Basic Provisions applicable to all other situations. FCIC is also proposing to add a new section 10(c) that specifies if the producer intends to harvest the crop in a manner other than as it was reported, the producer must notify the insurance provider before harvest begins. This is to address those situations where the producer insured the crop, and received a production guarantee and paid a premium, based on harvesting the crop as grain but the producer later elects to harvest the crop as silage, or vice versa. In order to ensure that the proper amount of production to count on the basis for which the crop was insured is assessed, the crop must be appraised before harvest. It is too difficult to convert silage production to grain production, or vice versa, after the crop is harvested. Therefore, this notice is

necessary so the approved insurance provider can properly appraise the crop;

(j) Section 11—FCIC is proposing to revise section 11(a) to clarify that the required records of production to qualify for unit division must be acceptable to the approved insurance provider. This makes the provision consistent with section 11(a)(1), which refers to the consequences if acceptable records of production are not provided. Acceptable records are required because they must be of a type that would permit the approved insurance provider to independently verify the information. If the information cannot be verified, approved insurance providers have no way of knowing whether the production reported is accurate. FCIC is also proposing to revise section 11(b) regarding the method used to compute a claim to provide separate calculations for claims that are based on yield protection from those that are based on revenue protection and adding an example. This change is necessary because yield protection only measures the change in the production, and values the production guarantee and production to count at the same projected price. However, revenue protection measures both the change in production and the change in price, and different prices may be used to determine the value of the guarantee (i.e. higher of the projected or harvest price) and the production to count (i.e. the harvest price). Further, FCIC is proposing to add a provision in section 11(c) that specifies the total production will include not less than the production guarantee for the acreage if the producer fails to give notice before harvest begins if the corn will be harvested in a manner different than it was reported. This addition is necessary to provide the consequences if the producer fails to comply with the proposed notice provisions in section 10. If the insured fails to provide the required notice, the producer will receive the production guarantee as the production to count for the acreage for which such notice was required. This is consistent with the other provisions in section 11(c) where it is difficult or impossible to accurately determine the production to count. FCIC is also proposing to remove paragraph (d) because it is no longer necessary due to the new provisions proposed in section 10(c) that specify if an insured intends to harvest the crop in a manner other than as it was reported, the producer must notify the insurance provider so that appraisals can be made on the basis for which the crop is insured. FCIC is also proposing to revise the provisions in redesignated section 11(e)(2) to refer generically to the end of the insurance period instead of September 30 as a result of the revised end of insurance period dates in section 7(b); and

(k) Section 12—Remove the reference to limited level of coverage since it is no longer applicable.

9. Basis for Specific Changes to the Malting Barley Crop Insurance Provisions

The proposed changes are as follows:

(a) Preamble—FCIC proposes to rename the endorsement as the "Small Grains Crop Insurance Malting Barley Price and Quality Endorsement";

(b) Section 1—FCIC proposes to move to section 1 the definitions previously contained in section 10. FCIC also proposes to delete the definition of "APH" because it is duplicative with the definition in the Common Crop Insurance Policy Basic Provisions. FCIC also proposes to delete the definition of "unit" because provisions regarding unit division are contained in section 6. FCIC proposes to revise the definition of "approved malting variety" to improve clarity. FCIC proposes to revise the definition of "malting barley contract" to separate the different requirements, improve clarity, and to change the term "processed mash" to "malt extracts" because the term "malt extracts" is more commonly used in the malting barley industry.

FCIC is also proposing to revise the definition of "objective test" so protein content will be determined by procedures approved by the Federal Grain Inspection Service because the Federal Grain Inspection Service has developed testing standards for determining protein and since USDA standards are used for other quality determinations, it is appropriate to use USDA test standards for protein. The definition is also restructured to improve clarity. FCIC is also proposing to revise the definition of "subjective test" to restructure the definition to improve clarity.

FCIC is also proposing to add a definition of "additional value price" because the term is used throughout the endorsement. FCIC is also proposing to add a definition of "crop year" to specify for APH purposes the term does not include any year when the crop was not planted or when the crop was prevented from being planted by an insurable cause. FCIC proposes to add a definition of "malt extracts" because the term is used in the definition of "malting barley contract." FCIC is proposing to add a definition of "malting barley price agreement" to describe a production contract between a producer and a buyer other than a brewery or malster. The definitions of "brewery," "contracted production," and "licensed grain grader" are the same as in the previous endorsement;

(c) Section 2—FCIC is proposing to move to section 2 those provisions previously contained in the preamble in Options A and B;

(d) Section 3—FCIC is proposing to move to section 3 those provisions regarding policies that must be in place before electing the endorsement previously contained in section 1;

(e) Section 4—FCIC is proposing to move to section 4 those provisions regarding the selection of option A or B that were previously contained in section 2;

(f) Section 5—FCIC is proposing to move to section 5 those provisions regarding insurable acreage that were previously contained in section 6. Also, FCIC proposes to clarify that acreage grown for seed production is not insurable under the endorsement;

(g) Section 6—FCIC is proposing to revise section 6 to clarify how the acreage with different shares is to be reported on the acreage report and to provide an example because it was unclear how acreage with different shares was supposed to be reported;

(h) Section 7—FCIC is proposing to move to section 7 those provisions regarding the selection of the additional value price that were previously contained in section 3;

(i) Section 8—FCIC proposes to move to section 8 those provisions regarding premium computations that were previously contained in section 4. Also, FCIC is proposing to add provisions that require adjustment of premium rates based on production history. This is similar to other insured crops where the premium rate increases as the yield decreases and vice versa. This is because as the yield decreases, the risk of loss is greater, requiring higher premiums to cover such losses;

(j) Section 9—FCIC proposes to move to section 9 those provisions regarding reporting requirements under the endorsement that were previously contained in section 5;

(k) Section 10—FCIC proposes to move to section 10 those provisions regarding the ability to complete a claim before insured production is sold that were previously in section 7. FCIC also proposes to restructure provisions for clarity and readability. FCIC also proposes to revise the provisions to allow reopening of the claim when production is sold after May 31 of the year following harvest. Currently May 31 is the earliest date losses may be paid for unsold production that fails the

quality standards. However, FCIC has discovered that disposition of the crop may not be known before May 31. Therefore, the policy must contain provisions that allow for an adjustment based on a certification that the production will not be sold and if no certification is provided, no quality adjustment will be allowed. These provisions are similar to section 15 of the Common Crop Insurance Policy Basic Provisions, which allows an indemnity to be paid based on a certification that the crop will not be harvested and contains the consequences when it is;

(l) Section 11—FCIC proposes to move to section 11 those provisions indicating that prevented planting coverage is not provided under the endorsement that were previously contained in section 8;

(m) Section 12—FCIC proposes to move to section 12 those provisions regarding the commingling of production that were previously contained in section 9. FCIC has also revised the provision to make it clearer that if the production of malting barley and feed barley are commingled, the claim will be denied. This is because it would be difficult to impossible to separate the production once it has been commingled. If the production cannot be separated, there is no way to determine if the production to count were accurate;

(n) Section 13—FCIC proposes to move to section 13 those provisions indicating how claims will be settled that were previously contained in section 5 of Options A and B. FCIC determined that there was no need for duplicate provisions. FCIC also proposes to revise the provisions to address situations in which more than one additional value price is applicable. There may be circumstances where the malting barley is covered by more than one malting barley contract or malting barley price agreement. Therefore, the endorsement needs to contain provisions regarding how claims will be determined if there are more than one additional value price;

(o) Section 14—FCIC is proposing to move to section 14 those provisions regarding production to be counted when there is a claim that were previously contained in section 4 of Options A and B. FCIC determined that there was no need for duplicate provisions. In the new section 14(a)(1) (previously section 4(a)(1) of Options A and B), FCIC also proposes to clarify that production to be counted includes potential production on acreage that is put to another use. This production was previously omitted from the endorsement but since it is included when calculating production to count under the Small Grains Crop Provisions, it should be included as production to count in this endorsement. In section 14(a)(2)(i) (previously section 4(a)(2)(i) of Options A and B), FCIC is also proposing to revise the provisions to specify that the parts per million standards will be those set in the malting barley contract or malting barley price agreement, not those set by the Food and Drug Administration because the price the producer receives is paid based on the standards in such contracts or agreements. In section 14(a)(2)(ii) (previously section 4(a)(2)(ii) of Options A and B), FCIC also proposes to revise quality adjustment provisions to list sprout injury as a quality standard rather than sprout damage. New testing standards have been developed by USDA to determine sprout injury and most malting barley buyers now use sprout injury levels to determine whether grain can be accepted for malting purposes. FCIC also proposes to change the quality standard for protein for two-row malting barley from 14.0 percent to 13.5 percent to better reflect protein levels required by most buyers of two-row malting barley. In section 14(a)(3) (previously section 4(a)(3) of Options A and B), FCIC is also proposing to revise the provisions so that damaged production sold for any use at a price greater than the projected price will be production to count. This is to ensure that producers are not receiving indemnities when they have received the full value for the malting barley. Previous provisions did not consider production sold for seed or other higher value uses as production to count. In section 14(b) (previously section 4(b) of Options A and B), FCIC is proposing to clarify how production to count will be determined when production is damaged and the additional value price is greater than the price received, to remove references to price elections because revenue protection is available for barley and to add examples. FCIC is also proposing to move to section 14(b)(2) those provisions regarding reconditioning previously contained in sections 4(c) of Options A and B and to allow the cost of reconditioning to be considered when adjusting the production to count because it failed the quality standards. Previously such production was considered separately but this added an unnecessary complication and burden on the approved insurance providers. FCIC is also proposing to move to sections 14(c) and (d) those provisions regarding when production to count will not be adjusted and the need for objective tests that were previously contained in sections 14(e) and (f) of Options A and B. These provisions have also been restructured for readability;

(p) Section 1 (Option A)—FCIC proposes in section 1 to update the years used in the example that indicates what production records must be provided. FCIC has also restructured the provisions for readability. FCIC also proposes to add a new section 1(b) that specifies that the producer must provide a copy of a malting barley contract or price agreement by the acreage reporting date, if such document is to be used to determine the additional value price election. Option (B)–FCIC proposes to add provisions in section 1(a) that require the applicant/insured to provide records of sales of malting barley and copies of malting barley contracts for at least the previous 4 years in the database. These records will be used to determine past success rates of malting barley production. These records will also be used to determine if a producer is eligible for coverage under Option B and to determine the premium producers must pay. If the producer had malting barley contracts in the four required years but does not provide them or the sales records, the producer will not be eligible for Option B. Further, the success rate will be used to determine a factor that will be applied to the premium;

(q) Section 2 (Option A)—FCIC proposes in section 2 to clarify the manner in which the production guarantee per acre will be determined to clarify the manner in which the malting barley history will be determined. The provisions are also restructured for readability;

(r) Section 3 (Options A and B)—FCIC proposes in section 3 to revise the provisions regarding the determination of the additional value price to include exactly how the amount will be determined when the producer elects a variable premium price option under a malting barley contract. Previously, section 3 simply contained the maximum additional value price but failed to state how it was to be determined. Option A—FCIC proposes to add provisions to allow the additional value price to be determined based on a contract price contained in a malting barley contract or price agreement. Also, FCIC proposes to add a provision indicating the additional value price election cannot exceed $1.25 per bushel because this amount is reflective of the maximum additional price received and there is a need to limit liability. Option B—FCIC proposes to change the maximum additional

value price election from $2.00 per bushel to $1.25 per bushel to be consistent with the current Income Protection Malting Barley Endorsement. Further, it was determined that $2.00 did not accurately reflect the added value; and

(s) Section 4 (Options A and B)—FCIC proposes to move to section 4 those provisions regarding the loss example that were previously contained in section 6 of Options A and B, to restructure the provisions for clarity, and to update the example to reflect other changes made to the endorsement.

10. Basis for Specific Changes to the Rice Crop Insurance Provisions

The proposed changes are as follows:

(a) Section 3—FCIC is proposing to add a new section 3(a) to specify that the producer must elect to insure rice with either revenue protection or yield protection by the sales closing date. Rice was previously insured under APH, CRC, and RA. In redesignated section 3(b), FCIC is proposing to correct all price references to use projected price and harvest price. This is necessary because rice has revenue protection available so it will no longer use price elections. If the producer elects yield protection, the price used to determine both the value of the production guarantee and the value of the production to count for indemnity purposes will be the projected price. If the producer elects revenue protection, the higher of the projected price or the harvest price is used to calculate the revenue production guarantee, unless the harvest price exclusion option is selected, and the harvest price is used to value the production to count.

FCIC is also proposing to add a new section 3(b)(1) to specify the producer must select the same percentage for both the projected price and the harvest price. FCIC also proposes to add a new section 3(b)(2) to specify the projected price and harvest price for each type must have the same percentage relationship to the maximum projected price and harvest price. These changes are consistent with other Crop Provisions that require the same percentage apply to the prices so that producers cannot adversely select the high price percentage for the projected price to maximize the guarantee and select a lower percentage for the harvest price to manufacture a loss, etc.;

(b) Sections 4, 5, 7 and 8-FCIC is proposing to revise the format of sections 4, 5, 7 and 8 to be consistent with other similar Crop Provisions. This will make the provisions easier to read;

(c) Section 6—FCIC is proposing to revise the format in section 6 to be consistent with other similar Crop Provisions. FCIC is also proposing to add a provision that states that the premium rate may be provided by written agreement. Previously the premium rate could only be provided by the actuarial documents. Other similar Crop Provisions allow a premium rate to be provided by written agreement and there is no reason rice should not be treated the same;

(d) Section 9—FCIC is proposing to revise section 9 to be consistent with the format of other similar Crop Provisions. Also, FCIC is proposing to add a new section 9(a)(9) that specifies that a decline in the harvest price below the projected price is an insured cause of loss to allow coverage for revenue protection;

(e) Section 10—FCIC is proposing to revise section 10 to be consistent with the format of other similar Crop Provisions. FCIC is also proposing to revise section 10(a) to make inapplicable the provisions in section 13 of the Common Crop Insurance Policy Basic Provisions that limit the amount of a replant payment to the producer's actual cost. FCIC has reviewed the costs associated with replanting rice and determined that only in rare instances were the actual costs less than the amount determined in accordance with section 13 of the Common Crop Insurance Policy Basic provisions. This meant there was a large administrative burden associated with obtaining receipts from the producer to prove costs with little effect on payment amounts. FCIC is currently in the process of contracting a replant study. Based on the results of the study, FCIC will propose to remove the limit of the producer's actual cost of replanting for other crops if the study shows the actual cost of replanting is rarely less than the maximum payment amount allowed by the Crop Provisions;

(f) Section 11—FCIC proposes to revise section 11 to be consistent with the format of other similar Crop Provisions. FCIC is also proposing to revise section 11 to remove those provisions regarding representative samples that are now incorporated into section 14 of the Common Crop Insurance Policy Basic Provisions;

(g) Section 12—FCIC is proposing to revise section 12(a) to clarify that the required records of production to qualify for unit division must be acceptable to the approved insurance provider. This makes the provision consistent with section 12(a)(1), which refers to the consequences if acceptable records of production are not provided. Acceptable records are required because they must be of a type that would permit the approved insurance provider to independently verify the information. If the information cannot be verified, approved insurance providers have no way of knowing whether the production reported is accurate. FCIC is also proposing to revise section 12(b) regarding the method used to compute a claim to provide separate calculations for claims that are based on yield protection from those that are based on revenue protection and adding an example. This change is necessary because yield protection only measures the change in the production and values the production guarantee and production to count at the same projected price. However, revenue protection measures both the change in production and the change in price and different prices may be used to determine value of the guarantee (*i.e.* higher of the projected or harvest price) and the production to count (*i.e.* the harvest price); and

(h) Section 13—FCIC is proposing to remove the reference to limited level of coverage since it is no longer applicable.

11. Basis for Specific Changes to the Canola and Rapeseed Crop Insurance Provisions

The proposed changes are as follows:

(a) Section 3—FCIC is proposing to add a new section 3(a) to specify that the producer must elect to insure canola and rapeseed with either revenue protection or yield protection by the sales closing date. Canola and rapeseed are currently insured under APH and RA. However, rapeseed prices no longer have a consistent correlation to canola prices that are established on a Commodity Exchange. Since canola and rapeseed are covered under the same policy, FCIC proposes to allow rapeseed to be covered under revenue protection even though it is not traded on any Commodity Exchange. To accomplish this, the projected price for rapeseed will be established by FCIC in accordance with the Commodity Exchange Price Provisions and the harvest price will be set equal to the projected price. With both canola and rapeseed insured under revenue protection, the producer may qualify for a whole-farm unit. However, rapeseed will not have the benefit of coverage against a change in the price.

In redesignated section 3(b), FCIC is also proposing to correct all price references to use projected price and harvest price. This is necessary because both canola and rapeseed have revenue protection available so they will no longer use price elections. If the producer elects yield protection, the price used to determine both the value

of the production guarantee and the value of the production to count for indemnity purposes will be the projected price. If the producer elects revenue protection, the higher of the projected price or the harvest price is used to calculate the revenue production guarantee, unless the harvest price exclusion option is selected, and the harvest price is used to value the production to count.

FCIC proposes to add a new section 3(b)(1) to specify the producer must select the same percentage for both the projected price and the harvest price. Also, FCIC proposes to add a new section 3(b)(2) to specify the projected price and harvest price for each type must have the same percentage relationship to the maximum projected price and harvest price. In some counties canola and rapeseed are treated as types and some counties may only insure canola or rapeseed. These changes are consistent with other Crop Provisions that require the same percentage apply to the prices so that producers cannot adversely select the high price percentage for the projected price to maximize the guarantee and select a lower percentage for the harvest price to manufacture a loss, etc.;

(b) Section 6—FCIC is proposing to revise section 6 to restructure the formatting for readability. FCIC is also proposing to add a new subsection (b) to specify if the Special Provisions designate both fall and spring final planting dates, any fall canola or fall rapeseed that is damaged before the spring final planting date, to the extent that producers in the area would normally not further care for the crop, must be replanted to a fall type of the insured crop unless the approved insurance provider agrees that replanting is not practical. If it is not practical to replant to the fall type of canola or rapeseed but is practical to replant to a spring type, the producer must replant to a spring type to keep insurance based on the fall type in force. Any fall canola or fall rapeseed acreage that is replanted to a spring type of the same crop when it was practical to replant the fall type will be insured as the spring type and the production guarantee, premium, projected price, and harvest price applicable to the spring type will be used. These provisions are added because fall canola and rapeseed are being planted and insured in more counties and states and could potentially be insured in additional counties and states in the future;

(c) Section 9—FCIC is proposing to revise section 9 to be consistent with the format of other similar Crop Provisions. In section 9(h), FCIC is also proposing to clarify that failure of the irrigation water supply that occurs during the insurance period is a covered cause of loss if such failure is due to a cause of loss specified in the Crop Provisions. Also, FCIC is proposing to add a new section 9(i) that specifies that a decline in the harvest price below the projected price is an insured cause of loss to allow coverage for revenue protection;

(d) Section 10—FCIC is proposing to revise section 10 to be consistent with the format of other similar Crop Provisions. FCIC is also proposing to revise section 10(a)(1) to make inapplicable the provisions in section 13 of the Common Crop Insurance Policy Basic Provisions that limit of the amount of a replant payment to the producer's actual cost. FCIC has reviewed the costs associated with replanting canola and rapeseed and determined that only in rare instances were the actual costs less than the amount determined in accordance with section 13 of the Common Crop Insurance Policy Basic Provisions. This meant there was a large administrative burden associated with obtaining receipts from the producer to prove costs with little effect on payment amounts. FCIC is currently in the process of contracting a replant study. Based on the results of the study, FCIC will propose to remove the limit of the producer's actual cost of replanting for other crops if the study shows the actual cost of replanting is rarely less than the maximum payment amount allowed by the Crop Provisions.

FCIC also proposes to revise section 10(a) to allow a replanting payment when the amount of seed used is less than the amount normally used for initial seeding. The seeding rate of the replanted crop must be at a rate sufficient to achieve a total (undamaged and new seeding) plant population that will produce at least the yield used to determine the producer's production guarantee. Allowing this payment under such circumstances will provide a greater incentive to improve poor crop stands, thereby improving production levels and reducing claims. FCIC also proposes to add a new section 10(d) to specify that replanting payments will be calculated using the projected price and production guarantee for the crop type that is replanted and insured. There have been instances where producers have replanted a different insured crop type that has different yields and prices than the type originally planted. This could result in the crop being over-insured or under-insured if the production guarantee and prices were based on the crop type originally planted. Instead, FCIC has proposed to add provisions to ensure that the production guarantee and replanting payment are based on the yield and prices for the type that is replanted. A revised acreage report will be required to reflect the replanted type, as applicable;

(e) Section 11—FCIC is proposing to revise section 11 to be consistent with the format of other similar Crop Provisions. FCIC is also proposing to revise section 11 to remove those provisions regarding representative samples that are now incorporated into section 14 of the Common Crop Insurance Policy Basic Provisions;

(f) Section 12—FCIC is proposing to revise section 12(a) to clarify that the required records of production to qualify for unit division must be acceptable to the approved insurance provider. This makes the provision consistent with section 12(a)(1), which refers to the consequences if acceptable records of production are not provided. Acceptable records are required because they must be of a type that would permit the approved insurance provider to independently verify the information. If the information cannot be verified, approved insurance providers have no way of knowing whether the production reported is accurate. FCIC is also proposing to revise section 12(b) regarding the method used to compute a claim to provide separate calculations for claims that are based on yield protection from those that are based on revenue protection. Also, FCIC proposes to add a new example, remove the previous example, and remove the provisions stating how a claim will be computed if the quality adjustment factors are not in the Special Provisions. The quality adjustment factors are currently in the Special Provisions for all counties where canola and rapeseed are insured; and

(g) Section 14—Remove the reference to limited level of coverage since it is no longer applicable.

List of Subjects in 7 CFR Part 457

Crop insurance, Reporting and recordkeeping requirements.

Proposed Rule

Accordingly, as set forth in the preamble, the Federal Crop Insurance Corporation proposes to amend 7 CFR part 457 effective for the 2009 and succeeding crop years to read as follows:

PART 457—COMMON CROP INSURANCE REGULATIONS

1. The authority citation for 7 CFR part 457 continues to read as follows:

Authority: 7 U.S.C. 1506(l), 1506(p).

2. Amend § 457.8 as follows:

A. Throughout § 457.8, where they appear, remove the words "whole farm" and add the phrase "whole-farm" in its place, and remove the acronym "C.F.R." and add "CFR" in its place;

B. Amend § 457.8 to add new paragraphs (c) through (f), immediately before the Common Crop Insurance Policy, to read as follows:

§ 457.8 The application and policy.

* * * * *

(c) If the producer had a Crop Revenue Coverage, Revenue Assurance, Income Protection, or Indexed Income Protection crop insurance policy in effect for the 2008 crop year and has not canceled such coverage in accordance with such policy, except for sunflowers, revenue protection will continue in effect under the Common Crop Insurance Policy Basic Provisions and no new application is required.

(1) If the producer had revenue coverage under Crop Revenue Coverage, Income Protection, or Indexed Income Protection plans of insurance for the 2008 crop year, the producer will have revenue protection under the Common Crop Insurance Policy Basic Provisions in effect for the 2009 crop year at the same coverage level, and percentage of price, and applicable options and endorsements.

(2) If the producer had revenue coverage under the Revenue Assurance plan of insurance for the 2008 crop year and:

(i) The producer had the fall harvest price option, for the 2009 crop year the producer will have revenue protection, under the Common Crop Insurance Policy Basic Provisions, based on the greater of the projected price or the harvest price, the same coverage level, percentage of price, and other applicable options or endorsements;

(ii) The producer did not have the fall harvest price option, for the 2009 crop year the producer will have revenue protection, under the Common Crop Insurance Policy Basic Provisions, the harvest price exclusion option, the same coverage level, percentage of price, and other applicable options or endorsements; or

(iii) If the producer had revenue coverage for sunflowers for the 2008 crop year, the producer will have APH coverage for the 2009 crop year, unless the policy is canceled by the cancellation date.

(3) If the producer has revenue protection under paragraphs (c)(1) or (2) of this section, the producer will be eligible for the hail and fire exclusion option if the requirements are met.

(d) If the producer had APH coverage for a crop under the Common Crop Insurance Policy Basic Provisions for the 2008 crop year and that crop now has revenue protection available, the producer will have yield protection for the crop under the Common Crop Insurance Policy Basic Provisions in effect for the 2009 crop year at the same coverage level, and percentage of price, and applicable options or endorsements.

(e) If the producer had coverage for a crop under the Common Crop Insurance Policy Basic Provisions for the 2008 crop year and that crop does not have revenue protection available for the 2009 crop year, the producer will continue with the same coverage (for example, APH or amount of insurance) until cancelled or terminated.

(f) For any producer specified in paragraph (c) or (d) of this section:

(1) Any coverage provided under paragraphs (c) through (e) of this section, may be changed by the producer in accordance with section 3 of the Common Crop Insurance Policy Basic Provisions or the producer may cancel such coverage in accordance with section 2 of the Common Crop Insurance Policy Basic Provisions.

(2) If a producer has a properly executed Power of Attorney on file with the approved insurance provider, such Power of Attorney will remain in effect under the Common Crop Insurance Policy Basic Provisions until it is terminated.

(3) If the producer has a current written agreement in effect for the crop for multiple crop years, such written agreement will remain in effect if the terms of the written agreement are still applicable, the conditions under which the written agreement was provided have not changed, and the policy remains with the same insurance provider.

* * * * *

C. Amend the "Agreement to Insure" sections after the second paragraph of both the "FCIC Policies" and "Reinsured Policies" sections that precedes "Terms and Conditions Basic Provisions" of § 457.8 as follows:

FCIC Policies

* * * * *

AGREEMENT TO INSURE: In return for the payment of the premium, and subject to all of the provisions of this policy, we agree with you to provide the insurance as stated in this policy. If there is a conflict between the Act, the regulations published at 7 CFR chapter IV, and the procedures issued by us, the order of priority is as follows: (1) The Act; (2) the regulations; and (3) the procedures issued by us, with (1) controlling (2), etc. If there is a conflict between the policy provisions published at 7 CFR part 457 and the administrative regulations published at 7 CFR part 400, the policy provisions published at 7 CFR part 457 control. If a conflict exists among the policy provisions, the order of priority is: (1) The Catastrophic Risk Protection Endorsement, as applicable; (2) the Special Provisions; (3) the Commodity Exchange Price Provisions, as applicable; (4) the Crop Provisions; and (5) these Basic Provisions, with (1) controlling (2), etc.

Reinsured Policies

* * * * *

AGREEMENT TO INSURE: In return for the payment of the premium, and subject to all of the provisions of this policy, we agree with you to provide the insurance as stated in this policy. If there is a conflict between the Act, the regulations published at 7 CFR chapter IV, and the procedures as issued by FCIC, the order of priority is as follows: (1) The Act; (2) the regulations; and (3) the procedures as issued by FCIC, with (1) controlling (2), etc. If there is a conflict between the policy provisions published at 7 CFR part 457 and the administrative regulations published at 7 CFR part 400, the policy provisions published at 7 CFR part 457 control. If a conflict exists among the policy provisions, the order of priority is: (1) The Catastrophic Risk Protection Endorsement, as applicable; (2) the Special Provisions; (3) the Commodity Exchange Price Provisions, as applicable; (4) the Crop Provisions; and (5) these Basic Provisions, with (1) controlling (2), etc.

D. Amend section 1 of § 457.8 by adding definitions of "Commodity Exchange Price Provisions (CEPP)," "common land unit," "Cooperative Extension System," "harvest price," "harvest price exclusion option," "insurable interest," "projected price," "revenue protection," "revenue protection guarantee (per acre)," "RMA's Web site," "yield protection," and "yield protection guarantee (per acre)," and revising the definitions of "actuarial documents," "agricultural experts," "assignment of indemnity," "average yield," "catastrophic risk protection," "claim for indemnity," "delinquent debt," "enterprise unit," "liability," "organic agricultural industry," "policy," "prevented planting," "price election," "production report," "share," "substantial beneficial interest," "void," and "whole-farm unit." Also, place the definitions of "Code of Federal Regulations (CFR)" and "consent" in alphabetical order.

The revised and added text reads as follows:

1. Definitions.

* * * * *

Actuarial documents. The material for the crop year which is available for public inspection in your agent's office and published on RMA's Web site and which shows available coverage levels, information needed to determine amounts of insurance,

prices, premium rates, premium adjustment percentages, practices, particular types or varieties of the insurable crop, insurable acreage, and other related information regarding crop insurance in the county.

* * * * *

Agricultural experts. Persons who are employed by the Cooperative Extension System or the agricultural departments of universities, or other persons approved by FCIC, whose research or occupation is related to the specific crop or practice for which such expertise is sought.

* * * * *

Assignment of indemnity. A transfer of policy rights, made on our form, and effective when approved by us. It is the arrangement whereby you assign your right to an indemnity payment to any legitimate creditor of yours for the crop year.

Average yield. The yield, calculated by totaling the yearly actual (including actual yields reduced in accordance with the policy), assigned, adjusted or unadjusted transitional yields and dividing the total by the number of yields contained in the database, prior to any yield adjustments.

* * * * *

Catastrophic risk protection. The minimum level of coverage offered by FCIC that is required before you may qualify for certain other USDA program benefits. Catastrophic risk protection is not available with revenue protection.

* * * * *

Claim for indemnity. A claim made on our form by you for damage or loss to an insured crop in accordance with section 14.

* * * * *

Commodity Exchange Price Provisions (CEPP). A part of the policy that is used for all crops for which revenue protection is available, regardless of whether the producer elects revenue protection or yield protection for such crops. This document will include the information necessary to derive the projected price and the harvest price for the insured crop, as applicable.

Common land unit. The smallest unit of land that has: a permanent, contiguous boundary; common land cover and land management; and common owner and common producer association.

* * * * *

Cooperative Extension System. A nationwide network consisting of a state office located at each state's land-grant university, and local or regional offices. These offices are staffed by one or more agronomic experts, who work in cooperation with the Cooperative State Research, Education and Extension Service, and who provide information to agricultural producers and others.

* * * * *

Delinquent debt. Has the same meaning as the term contained in 7 CFR part 400, subpart U.

* * * * *

Enterprise unit. All insurable acreage of the insured crop in the county in which you have a share on the date coverage begins for the crop year.

* * * * *

Harvest price. A price determined in accordance with the Commodity Exchange Price Provisions and used to value production to count for revenue protection.

Harvest price exclusion option. For revenue protection, an option that allows you to exclude the use of the harvest price in the determination of your revenue protection guarantee. This option is continuous unless canceled by the cancellation date.

* * * * *

Insurable interest. The value of your interest in the crop that is at risk from an insurable cause of loss during the insurance period. The maximum indemnity payable to you may not exceed the indemnity due on your insurable interest at the time of loss.

* * * * *

Liability. Your total amount of insurance, value of your production guarantee, or revenue protection guarantee for the unit determined in accordance with the claims provisions of the applicable Crop Provisions.

* * * * *

Organic agricultural industry. Persons who are employed by the following organizations: Appropriate Technology Transfer for Rural Areas, Sustainable Agriculture Research and Education or the Cooperative Extension System, the agricultural departments of universities, or other persons approved by FCIC, whose research or occupation is related to the specific organic crop or practice for which such expertise is sought.

* * * * *

Policy. The agreement between you and us to insure an agricultural commodity and consisting of the accepted application, these Basic Provisions, the Crop Provisions, the Special Provisions, the Commodity Exchange Price Provisions, if applicable, other applicable endorsements or options, the actuarial documents for the insured agricultural commodity, the Catastrophic Risk Protection Endorsement, if applicable, and the applicable regulations published in 7 CFR chapter IV. Insurance for each agricultural commodity in each county will constitute a separate policy.

* * * * *

Prevented planting. Failure to plant the insured crop by the final planting date designated in the Special Provisions for the insured crop in the county, due to an insured cause of loss that is general to the surrounding area and that prevents other producers from planting acreage with similar characteristics. The failure to plant the insured crop within the late planting period may also be considered prevented planting if due to an insured cause of loss. Failure to plant because of uninsured causes, such as lack of proper equipment or labor to plant acreage, is not considered prevented planting.

Price election. The amounts contained in the Special Provisions, or in an addendum thereto, that is the value per pound, bushel, ton, carton, or other applicable unit of measure for the purposes of determining premium and indemnity under the policy. A price election is not applicable for crops for which revenue protection is available.

* * * * *

Production report. A written record showing your annual production and used by us to determine your yield for insurance purposes in accordance with section 3. The report contains yield information for previous years, including planted acreage and harvested production. This report must be supported by written verifiable records from a warehouseman or buyer of the insured crop or by measurement of farm-stored production, or by other records of production approved by us on an individual case basis in accordance with FCIC approved procedures.

* * * * *

Projected price. A price determined in accordance with the Commodity Exchange Price Provisions and used for all crops for which revenue protection is available, regardless of whether you elect to obtain revenue protection or yield protection for such crops.

* * * * *

Revenue protection. Insurance coverage that provides protection against production loss or price decline or increase or a combination of both. If the harvest price exclusion option is elected, the insurance coverage provides protection only against the production loss or price decline or a combination of both.

Revenue protection guarantee (per acre). For revenue protection only, the production guarantee (per acre), times the greater of the projected price or the harvest price. If the harvest price exclusion option is elected, the production guarantee (per acre) is only multiplied by your projected price.

RMA's Web site. A Web site hosted by RMA and located at *http://www.rma.usda.gov/* or a successor Web site.

* * * * *

Share. Your percentage of insurable interest in the insured crop as an owner, operator, or tenant at the time insurance attaches. However, only for the purpose of determining the amount of indemnity, your share will not exceed your share at the earlier of the time of loss or the beginning of harvest.

* * * * *

Substantial beneficial interest. An interest held by any person of at least 10 percent in you. The spouse of any individual applicant or individual insured will be considered to have a substantial beneficial interest in the applicant or insured unless the spouses can prove they are legally separated or otherwise legally separate under the applicable state dissolution of marriage laws. Any child of an individual applicant or individual insured will not be considered to have a substantial beneficial interest in the applicant or insured unless the child has a separate legal interest in such person. For example, there are two partnerships that each have a 50 percent interest in you and each partnership is made up of two individuals, each with a 50 percent share in the partnership. In this case, each individual would be considered to have a 25 percent interest in you, and both the partnerships and the individuals would have a substantial beneficial interest in you (The spouses of the individuals would not be considered to have a substantial beneficial interest unless the spouse was one of the

individuals that made up the partnership). However, if each partnership is made up of six individuals with equal interests, then each would only have an 8.33 percent interest in you and although the partnership would still have a substantial beneficial interest in you, the individuals would not for the purposes of reporting in section 2.

* * * * *

Void. When the policy is considered not to have existed for a crop year.

Whole-farm unit. All insurable acreage of all the insured crops planted in the county in which you have a share on the date coverage begins for each crop for the crop year and for which the whole-farm unit structure is available.

* * * * *

Yield protection. Insurance coverage that only provides protection against a production loss for crops for which revenue protection is available but was not elected.

Yield protection guarantee (per acre). When yield protection is selected for a crop that has revenue protection available, the production guarantee times your projected price.

* * * * *

E. Amend section 2 of § 457.8 as follows:

a. Amend paragraph (a) by adding at the end of the paragraph the following sentence "In accordance with section 4, FCIC may change the coverage provided from year to year.";

b. Revise paragraph (b);

c. Amend paragraph (e)(2) by removing "14(c)" and adding "14(e)" in its place; and

d. Revise paragraph (g).

The revised text reads as follows:

2. Life of Policy, Cancellation, and Termination.

* * * * *

(b) Your application for insurance must contain your social security number (SSN) if you are an individual or employer identification number (EIN) if you are a person other than an individual, and all SSNs and EINs, as applicable, of all persons with a substantial beneficial interest in you; your election of revenue protection or yield protection, as applicable, coverage level, percentage of price election or percentage of projected price and harvest price, as applicable, crop, type, variety, or class, plan of insurance, and any other material information required on the application to insure the crop.

(1) Your application will not be acceptable and no insurance will be provided if:

(i) It does not contain your SSN, EIN or identification number;

(ii) It contains an incorrect SSN, EIN or identification number for you, and such number is not corrected before any indemnity, replanting or prevented planting payment is made:

(A) If the information is not corrected, you must repay any indemnity, prevented planting payment or replanting payment that may have been paid for any crop listed on the application;

(B) If previously paid, the balance of any premium and any administrative fees will be returned to you, less 20 percent of the premium that would otherwise be due from you for such crops; and

(C) If not previously paid, no premium or administrative fees will be due for such crops; or

(iii) Any other information required in section 2(b) is not provided, except, if you fail to report the SSNs, EINs or identification numbers of persons with a substantial beneficial interest in you, the provisions in section 2(b)(2) will apply.

(2) If the application does not contain the SSNs, EINs, or identification numbers of all persons with a substantial beneficial interest in you, you fail to revise your application in accordance with section 2(b)(4), or any reported SSNs, EINs or identification numbers of any persons with a substantial beneficial interest in you are incorrect and are not corrected before any indemnity, replanting or prevented planting payment is made, and:

(i) Such persons are eligible for insurance, the amount of coverage for all crops included on this application will be reduced proportionately by the percentage interest in you of such persons (presumed to be 50 percent for spouses of individuals), you must repay the amount of indemnity, prevented planting payment or replanting payment that is proportionate to the interest of the persons whose SSN, EIN, or identification number was unreported or incorrect for such crops, and your premium will be reduced commensurately; or

(ii) Such persons are not eligible for insurance, except as provided in section 2(b)(3), the policy is void and no indemnity, prevented planting payment or replanting payment will be owed for any crop included on this application, and you must repay any indemnity, prevented planting payment or replanting payment that may have been paid for such crops:

(A) If previously paid, the balance of any premium and any administrative fees will be returned to you, less 20 percent of the premium that would otherwise be due from you for such crops; or

(B) If not previously paid, no premium or administrative fees will be due for such crops.

(3) The consequences described in section 2(b)(2)(ii) will not apply if you have included an ineligible person's SSN, EIN, or identification number on your application and do not include the ineligible person's share on the acreage report.

(4) If any of the information regarding persons with a substantial beneficial interest changes during the crop year, you must revise your application by the next sales closing date applicable under your policy to reflect the correct information.

(5) If you are an individual and you, or a person with a substantial beneficial interest in you, is not eligible to obtain a SSN, or if you are a person other than an individual and a person with a substantial beneficial interest in you is not eligible to obtain a SSN, you must request an identification number for the purposes of this policy from us.

(i) An identification number will be provided only if you can demonstrate you or a person with a substantial beneficial interest in you is eligible to receive Federal benefits in accordance with the Personal Responsibility and Work Opportunity Reconciliation Act of 1996.

(ii) If an identification number cannot be provided for you in accordance with section 2(b)(5)(i), the policy will be void.

(iii) If an identification number cannot be provided for any person with a substantial beneficial interest in you, the amount of coverage for all crops on the application will be reduced proportionately by the percentage interest of such person in you.

* * * * *

(g) In cases where there has been a death, disappearance, judicially declared incompetence, or dissolution:

(1) If any married insured individual dies, disappears, or is judicially declared incompetent, the named insured on the policy will automatically convert to the name of the spouse if:

(i) The spouse was included on the policy as having a substantial beneficial interest in the named insured; and

(ii) The spouse continues to have a share of the crop;

(2) If any partner, member, shareholder, etc., of an insured entity dies, disappears, or is judicially declared incompetent and it automatically dissolves the entity and the death, disappearance or declaration occurs:

(i) More than 30 days before the sales closing date, the policy is automatically canceled as of the cancellation date and a new application must be submitted; or

(ii) Less than 30 days before the sales closing date, or after the sales closing date, the policy will continue in effect through the crop year and be automatically canceled as of the cancellation date immediately following the end of the insurance period for the crop year, unless canceled by the cancellation date prior to the start of the insurance period:

(A) A new application for insurance must be submitted prior to the sales closing date for coverage for the subsequent crop year; and

(B) Any indemnity will be paid to the person or persons determined to be beneficially entitled to the indemnity and such person or persons must comply with all policy provisions and pay the premium.

(3) If any insured entity is dissolved for reasons other than those specified in section 2(g)(2):

(i) Before the sales closing date, the policy is automatically canceled by the cancellation date prior to the start of the insurance period; or

(ii) On or after the sales closing date, the policy will continue in effect through the crop year and be automatically canceled as of the cancellation date immediately following the end of the insurance period for the crop year, unless canceled by the cancellation date prior to the start of the insurance period.

(A) A new application for insurance must be submitted prior to the sales closing date for the coverage for the subsequent crop year; and

(B) Any indemnity will be paid in accordance with the terms of the policy and

the persons associated with the dissolved entity must comply with all policy provisions and pay the premium.

* * * * *

F. Amend section 3 of § 457.8 as follows:

a. Revise paragraphs (b), (c), and (d);

b. Amend the introductory text of paragraph (e) by adding the phrase ", except as specified in section 18(f)(2)(i) to apply for a written agreement to establish insurability" after the phrase "in the Special Provisions";

c. Revise paragraph (f);

d. Amend paragraph (g)(1) by removing the phrase ", and you may be subject to provisions of section 27";

e. Amend paragraph (g)(2)(i) by removing the word "and" after the semicolon at the end;

f. Amend paragraph (g)(2)(ii) by removing the word "insured" and adding the word "insurable" in its place and removing the word "or" at the end and adding the word "and" in its place;

g. Add a new paragraph (g)(2)(iii); and

h. Add a new paragraph (k).

The revised and added text reads as follows:

3. Insurance Guarantees, Coverage Levels, and Prices.

* * * * *

(b) For all acreage of the insured crop in the county, you must select the same coverage, catastrophic risk protection or additional coverage (revenue protection is not available if you select catastrophic risk protection coverage), the same protection (amount of insurance, yield coverage for those crops for which revenue protection is not available, or yield protection or revenue protection, if available), and the same level of additional coverage unless one of the following applies:

(1) The applicable Crop Provisions allow you the option to separately insure individual crop types or varieties. In this case, each individual type or variety insured by you will be subject to separate administrative fees. For example, if two grape varieties in California are insured under the Catastrophic Risk Protection Endorsement and two varieties are insured under an additional coverage policy, a separate administrative fee will be charged for each of the four varieties.

(2) If you have additional coverage for the crop in the county and the acreage has been designated as "high-risk" by FCIC, you will be able to obtain a High-Risk Land Exclusion Option for the high-risk land under the additional coverage policy and insure the high-risk acreage under a separate Catastrophic Risk Protection Endorsement, provided that the Catastrophic Risk Protection Endorsement is obtained from the same insurance provider from which the additional coverage was obtained. If you have revenue protection and exclude high-risk land, the catastrophic risk protection coverage will be yield protection only for the excluded high-risk land.

(c) For a crop for which revenue protection is not available:

(1) In addition to the price election or amount of insurance available on the contract change date, we may provide an additional price election or amount of insurance no later than 15 days prior to the sales closing date.

(i) You must select the additional price election or amount of insurance on or before the sales closing date for the insured crop.

(ii) These additional price elections or amounts of insurance will not be less than those available on the contract change date.

(iii) If you elect the additional price election or amount of insurance, any claim settlement and amount of premium will be based on your additional price election or amount of insurance.

(2) You may change the coverage level or percentage of the price election or amount of insurance for the following crop year by giving written notice to us not later than the sales closing date for the insured crop.

(i) The percentage of price election or amount of insurance selected by you times the price election or amount of insurance issued by FCIC is your price election or amount of insurance.

(ii) Since the price election or amount of insurance may change each year, if you do not select a new percentage of the price election or amount of insurance on or before the sales closing date, we will assign a percentage of the price election or amount of insurance which bears the same relationship to the percentage of the price election or amount of insurance that was in effect for the preceding year (For example: If you selected 100 percent of the price election for the previous crop year and you do not select a new percentage of the price election for the current crop year, we will assign 100 percent of the price election for the current crop year).

(d) For a crop for which revenue protection is available:

(1) You may change your selection of revenue protection or yield protection and your coverage level or elect the harvest price exclusion option, if applicable, by giving written notice to us not later than the sales closing date for the insured crop;

(2) The percentage of projected price and harvest price selected by you times the projected price and harvest price issued by FCIC is your projected price and your harvest price;

(3) Since the projected price and harvest price may change each year, if you do not select a new percentage of those prices on or before the sales closing date, we will assign a percentage of those prices which bears the same relationship to the percentage of those prices that were in effect for the preceding year (For example: If you selected 100 percent of the projected price and harvest price for the previous crop year and you do not select a new percentage of those prices for the current crop year, we will assign 100 percent of those prices for the current crop year);

(4) If revenue protection is not elected by you for a crop for which it is available, your projected price is used to compute the value of your production guarantee (per acre) and the value of the production to count; or

(5) If revenue protection is elected for a crop for which it is available and the harvest price exclusion option is:

(i) Not elected, your projected price is used to initially determine the revenue protection guarantee (per acre), and if the harvest price is greater than the projected price, the revenue protection guarantee (per acre) will be recomputed using your harvest price; or

(ii) Elected, your projected price is used to compute your revenue protection guarantee (per acre); and

(6) Your projected price is used to calculate your premium, any replanting payment, and any prevented planting payment.

* * * * *

(f) It is your responsibility to accurately report all information that is used to determine your approved yield.

(1) You must certify to the accuracy of this information on your production report.

(2) If you fail to accurately report any information or if you do not provide any required records, you will be subject to the provisions regarding misreporting contained in section 6(g). However, the provisions contained in section 6(g) will not apply if the information is corrected on or before the production reporting date or we correct the information because the incorrect information was the result of our error or the error of someone from USDA.

(3) If you do not have written verifiable records to support the information on your production report, you will receive an assigned yield in accordance with section 3(e)(1) and 7 CFR part 400, subpart G for those crop years for which you do not have such records.

(4) At any time we discover you have misreported any material information used to determine your approved yield or your approved yield is not correct, the following actions may be taken:

(i) We will correct your approved yield for the crop year such information is not correct and all subsequent crop years, as applicable;

(ii) We will correct the unit structure, if necessary; and

(iii) You will be subject to the provisions regarding misreporting contained in section 6(g)(1).

(g) * * *

(2) * * *

(iii) We determine there is no valid basis to support the approved APH yield; or

* * * * *

(k) For crops for which revenue protection is available:

(1) If there has been a news report, announcement, or other event that occurs during or after trading hours that is believed by the Secretary of Agriculture, Administrator of the Risk Management Agency, or other designated staff of the Risk Management Agency that results in market conditions significantly different than those used to rate or price revenue protection:

(i) If the announcement occurs before the projected price has been announced, but before the sales closing date, even if revenue protection was purchased prior to the announcement, you will receive the projected price established by FCIC, only yield protection will be available, and the premium will be for yield protection;

(ii) If the announcement occurs after the projected price is released and before the sales closing date, sales for revenue protection will automatically cease as of the date of the announcement and only yield protection will be available subsequent to the announcement:

(A) If you purchased revenue protection prior to the announcement, you will receive revenue protection and a harvest price will be calculated in accordance with the terms of the Commodity Exchange Price Provisions; or

(B) If you purchased insurance coverage after the announcement, you will receive yield protection only and your projected price will be used to determine any guarantee and indemnity.

(2) If the required data for establishing prices cannot be calculated in accordance with section 3 of the Commodity Exchange Price Provisions:

(i) For the projected price, no revenue protection will be available.

(A) If revenue protection is not available, notice will be provided on RMA's Web site by the date specified in the applicable projected price definition.

(B) In such instances, the projected price will be established by RMA in accordance with section 2 of the Commodity Exchange Price Provisions and released by the date specified in the applicable projected price definition.

(ii) For the harvest price, the harvest price will be set equal to the projected price. The premium amount will not be reduced if the required data for establishing the harvest price is not available.

(3) If you have revenue protection in effect, and only yield protection is available for any year, you will automatically receive yield protection for that year unless you cancel your coverage by the cancellation date. Your coverage will automatically revert to revenue protection for the next year that revenue protection is available unless you cancel your coverage by the cancellation date.

* * * * *

G. Amend section 4(b) of § 457.8 by adding the phrase "or the Commodity Exchange Price Provisions, if applicable" after the phrase "price elections" and removing the phrase "the RMA Web site at *http://www.rma.usda.gov/* or a successor Web site" and adding the phrase "RMA's Web site" in its place;

H. Amend section 6 of § 457.8 as follows:

a. Revise paragraph (c)(5);

b. Revise paragraph (d)(2);

c. Remove paragraph (d)(3) and redesignate paragraphs (d)(4), (5) and (6) as paragraphs (d)(3), (4) and (5), respectively;

d. Revise redesignated paragraph (d)(3);

e. Amend redesignated paragraph (d)(5) by removing the phrase "section 6(d)(1), (2), (4), or (5)" and adding the phrase "section 6(d)(1), (2), or (3)" in its place;

f. Amend paragraph (g)(1) by removing the word "If" and adding the phrase "Except as provided in section 6(g)(2), if" in its place; and

g. Revise paragraph (g)(2).

The revised text reads as follows:

6. Report of Acreage.

* * * * *

(c) * * *

(5) The date the insured crop was planted on the unit, which must include:

(i) The last date the crop was planted for all acreage in the unit planted by the final planting date; and

(ii) The date of planting and the amount of acreage planted per day for acreage planted during the late planting period.

(d) * * *

(2) For prevented planting acreage:

(i) On or before the acreage reporting date, except as provided in section 6(d)(2)(iii), you can change any information on any initially submitted acreage report (For example, you can correct the reported share, add acreage of the insured crop that was prevented from being planted, etc.);

(ii) After the acreage reporting date, you cannot revise any information on the acreage report (For example, if you have failed to report prevented planting acreage on or before the acreage reporting date, you cannot revise it after the acreage reporting date to include prevented planting acreage) but we will revise information that is clearly transposed or if you provide adequate evidence that we or someone from USDA have committed an error regarding the information on your acreage report; and

(iii) You cannot revise your initially submitted acreage report at any time to change the insured crop, or type, that was reported as prevented from being planted;

(3) You may request an acreage measurement prior to the acreage reporting date, and submit documentation of such request and an acreage report with estimated acreage by the acreage reporting date.

(i) If an acreage measurement is only requested for a portion of the acreage within a unit, you must separately designate the acreage for which an acreage measurement has been requested;

(ii) If an acreage measurement is not received by the time we receive a notice of loss, we will:

(A) Measure the acreage and pay the claim based on our measurement; or

(B) Charge premium and pay the claim based on the reported acreage and, once the acreage measurement is received, make any necessary adjustments to the premium, and any claim, based on the measurement (You may be required to pay additional premium or repay an overpaid indemnity); and

(iii) If we charge premium and pay the claim in accordance with section 6(d)(3)(ii)(B) and you fail to provide the measurement to us by the termination date:

(A) You will be required to repay any prevented planting payment, replant payment, or indemnity paid for the unit and premium will still be owed; and

(B) We will no longer accept estimated acreage from you for any subsequent acreage report;

* * * * *

(g) * * *

(2) If your share is misreported and the share is:

(i) Under-reported, any claim will be determined using the share you reported; or

(ii) Over-reported, any claim will be determined using the share we determine to be correct.

* * * * *

I. Amend section 7(c)(1) of § 457.8 by adding the phrase "or the projected price, as applicable," after the phrase "price election,";

J. Amend section 7(d) of § 457.8 by removing the first sentence;

K. Revise section 8(b)(2) of § 457.8 to read as follows:

8. Insured Crop.

* * * * *

(b) * * *

* * * * *

(2) For which the information necessary for insurance (price election, if applicable, premium rate, etc.) is not included on the actuarial documents:

(i) For crops for which revenue protection is not available, the necessary information may be provided by written agreement in accordance with section 18;

(ii) For crops for which revenue protection is available in the state:

(A) Revenue protection may be provided by written agreement if the Commodity Exchange Price Provisions provide for a projected price and harvest price for the state in which the written agreement will be applicable; or

(B) Only yield protection will be provided by written agreement if the Commodity Exchange Price Provisions do not provide for a projected price and harvest price for the state in which the written agreement will be applicable.

* * * * *

L. Amend section 9(a) of § 457.8 as follows:

a. Redesignate sections 9(a)(2) through (9) as sections 9(a)(3) through (10);

b. Add a new section 9(a)(2);

c. Amend redesignated section 9(a)(3) by adding the words "or sorghum" between the words "corn" and "silage"; and

d. Amend redesignated section 9(a)(10)(ii) by removing the phrase "section 9(a)(9)(i)(A)" and adding "section 9(a)(10)(i)(A)" in its place.

The added text reads as follows:

9. Insurable Acreage.

(a) * * *

(2) On which the only crop that has been planted and harvested in one of the previous three crop years is a cover, hay, or forage crop, except corn or sorghum silage unless:

(i) Allowed by the Crop Provisions or a written agreement; or

(ii) The crop to be insured on the acreage is a hay or forage crop;

* * * * *

M. Amend section 10 of § 457.8 by revising paragraphs (a) and (b) to read as follows:

10. Share Insured.

(a) Insurance will attach only if the person completing the application has a share in the insured crop and will only attach to that person's share. Insurance will not extend to any other person having a share in the crop:

(1) Unless the application clearly states the insurance is requested for an entity other than an individual (For example, a partnership or a joint venture); or

(2) Unless the application clearly states you:

(i) As landlord will insure your tenant's share;

(ii) As tenant will insure your landlord's share; or

(iii) As authorized in section 10(b):

(A) As a spouse will insure your spouse's share;

(B) As a parent will insure your child's share;

(C) As a child will insure your parent's share; or

(D) As a member of the household will insure the other household members' shares.

(3) If you insure any of the shares under section 10(a)(2), you must provide evidence of the other party's approval (lease, power of attorney, etc.) and such evidence will be retained by us;

(i) You also must clearly set forth the percentage shares of each person on the acreage report;

(ii) For each landlord or tenant that is an individual, you must report the landlord's or tenant's social security number; and

(iii) For each landlord or tenant that is a person other than an individual or for a trust administered by the Bureau of Indian Affairs, you must report each landlord's or tenant's social security number, employer identification number, or other identification number assigned for the purposes of this policy.

(b) With respect to your share:

(1) We will consider to be included in your share under your policy, any acreage or interest reported by or for:

(i) Your spouse, unless such spouse can prove he/she has a separate farming operation, which includes, but is not limited to, separate land excluding transfers of acreage from one spouse to another, separate capital, separate equipment, separate inputs, separate accounting, separate maintenance of proceeds; or

(ii) Your child or any member of your household, unless the child or other member of the household can demonstrate such person has a separate share in the crop; and

(2) If it is determined that the spouse, child or other member of the household has a separate policy but does not have a separate farming operation or share of the crop, as applicable:

(i) The spouse's policy will be void and will be determined in accordance with section 22(a); or

(ii) The child or other member of the household's policy will be void; and

(iii) No premium will be due and no indemnity will be paid for a policy that is voided in accordance with sections 10(b)(2)(i) and (ii).

* * * * *

N. Amend section 12 of § 457.8 as follows:

a. Revise the introductory paragraph;

b. Revise paragraph (d);

c. Amend paragraph (e) by removing the word "or" after the semicolon;

d. Amend paragraph (f) by removing the period at the end and replacing it with "; or"; and

e. Add a new paragraph (g).

The revised and added text reads as follows:

12. Causes of Loss.

Except for protection against a change in price, the insurance provided is against only those unavoidable naturally occurring events specified in the Crop Provisions. For all policies, including those for which revenue protection is available, the following causes of loss are NOT covered:

* * * * *

(d) Failure or breakdown of the irrigation equipment or facilities, or the inability to prepare the land for irrigation using your established irrigation method (*e.g.*, furrow irrigation), unless the failure, breakdown or inability is due to a cause of loss specified in the Crop Provisions.

(1) If damage is due to an insured cause, you must make all reasonable efforts to restore the equipment or facilities to proper working order within a reasonable amount of time unless we determine it is not practical to do so.

(2) Cost will not be considered when determining whether it is practical to restore the equipment or facilities;

* * * * *

(g) Any act by a third person that adversely affects the yield or price, such as terrorism, chemical drift, theft, etc.

O. Amend section 13 of § 457.8 as follows:

a. Amend paragraph (a) of this section by adding a new sentence at the end; and

b. Revise paragraph (c).

The revised text reads as follows:

13. Replanting Payment.

* * * * *

(a) * * * If the crops to be replanted are in a whole-farm unit, the 20 acres or 20 percent requirement is to be applied separately to each crop to be replanted in the whole-farm unit.

* * * * *

(c) The replanting payment per acre will be your actual cost for replanting, unless otherwise specified in the Crop Provisions or Special Provisions.

* * * * *

P. Amend section 14 of § 457.8 as follows:

a. Revise the text under "Your Duties"

b. Under "Our Duties" redesignate paragraphs (a) through (d) as paragraphs (f) through (i); and

c. Add a new paragraph (j) to the text under "Our Duties".

The revised and added text reads as follows:

14. Duties in the Event of Damage, Loss, Abandonment, Destruction, or Alternative Use of Crop or Acreage.

Your Duties—

(a) In the case of damage or a potential loss of production or revenue to any insured crop, you must protect the crop from further damage by providing sufficient care.

(b) Notice provisions:

(1) For a planted crop where there is damage or a potential loss of production or revenue, you must give us notice, by unit for each insured crop:

(i) For crops for which revenue protection is not available and crops for which revenue protection is available but is not elected, the earlier of:

(A) Within 72 hours of your initial discovery of damage or a potential loss of production; or

(B) Within 72 hours after the end of the insurance period, even if you have not harvested the crop by the calendar date for the end of the insurance period;

(ii) For crops for which revenue protection is elected:

(A) The earlier of:

(*1*) Within 72 hours of your initial discovery of damage or a potential loss of production; or

(*2*) Within 72 hours after the end of the insurance period, even if you have not harvested the crop by the calendar date for the end of the insurance period; or

(B) If notices are not required under section 14(b)(1)(ii)(A), not later than 45 days after the latest date the harvest price is released for any crop in the unit where there is a potential revenue loss;

(2) In the event you are prevented from planting an insured crop which has prevented planting coverage, you must notify us within 72 hours after:

(i) The final planting date, if you do not intend to plant the insured crop during the late planting period or if a late planting period is not applicable; or

(ii) You determine you will not be able to plant the insured crop within any applicable late planting period.

(3) All notices required in this section that must be received by us within 72 hours may be made by telephone or in person to your crop insurance agent but must be confirmed in writing within 15 days.

(4) Failure to comply with these notice requirements will result in:

(i) For failure to timely report production losses in accordance with sections 14(b)(1)(i) and 14(b)(1)(ii)(A) or prevented planting acreage in accordance with section 14(b)(2), any production loss or prevented planting will be considered due to an uninsured cause of loss for the acreage for which failure occurred, unless we determine that we have the ability to accurately determine the amount and cause of the loss; or

(ii) For failure to timely report a revenue loss in accordance with section 14(b)(1)(ii)(B), denial of any indemnity due for the acreage for which such failure occurred (You will still be required to pay all premiums owed).

(c) Representative samples:

(1) If representative samples are required by the Crop Provisions, leave representative

samples intact of the unharvested crop if you report damage less than 15 days before the time you begin harvest or during harvest of the damaged unit.

(2) The samples must be left intact until we inspect them or until 15 days after completion of harvest on the unit, whichever is earlier.

(3) Unless otherwise specified in the Crop Provisions or Special Provisions, the samples of the crop in each field in the unit must be 10 feet wide and extend the entire length of the rows, if the crop is planted in rows, or if the crop is not planted in rows, the longest dimension of the field.

(4) The period to retain representative samples may be extended if it is necessary to accurately determine the loss and you will be notified in writing of any such extension.

(d) Consent:

(1) You must obtain consent from us before, and notify us after you:

(i) Destroy any of the insured crop that is not harvested;

(ii) Put the insured crop to an alternative use;

(iii) Put the acreage to another use; or

(iv) Abandon any portion of the insured crop; and

(2) We will not give consent for any of the actions in section 14(d)(i) through (iv) if it is practical to replant the crop or until we have made an appraisal of the potential production of the crop.

(3) Failure to obtain our consent will result in the assignment of an amount of production or value to count in accordance with the claims provisions of the applicable Crop Provisions.

(e) Claims:

(1) You must submit a claim for indemnity declaring the amount of your loss by the dates shown in section 14(e)(3) unless you request an extension in writing by the applicable date below and we agree to such extension. Extensions will only be granted if the amount of the loss cannot be determined within such time period because the information needed to determine the amount of the loss is not available.

(2) Failure to timely submit a claim or provide the required information will result in no indemnity, prevented planting payment or replant payment (Even though no indemnity or other payment is due, you will still be required to pay the premium due under the policy for the unit).

(3) Deadlines for submitting claims:

(i) For crops covered by yield protection and for which revenue protection is not available, you must submit a claim for indemnity not later than 60 days after the end of the insurance period.

(ii) For crops covered by revenue protection, you must submit a claim for indemnity by the later of 60 days after the latest date the harvest price is released for any crop in the unit or 60 days after the latest date for the end of the insurance period for the unit.

(4) In order to receive an indemnity, or receive the rest of an indemnity in the case of acreage that is planted to a second crop, as applicable, the burden is on you to:

(i) Provide:

(A) A complete harvesting, production, and marketing record of each insured crop by unit including separate records showing the same information for production from any acreage not insured.

(B) Records as indicated below if you insure any acreage that may be subject to an indemnity reduction as specified in section 15(e)(2):

(*1*) To qualify for the rest of the indemnity for the first insured crop, if there is a loss on the unit that includes acreage of the second crop, records of production for the acreage planted to the second crop must be kept separate from the production for the rest of the acreage in the unit (For example, if you have an insurable loss on 10 acres of wheat and subsequently plant cotton on the same 10 acres, you must provide records of the wheat and cotton production on the 10 acres separate from any other wheat and cotton production that may be planted in the same unit);

(*2*) If there is no loss on the unit that includes acreage of the second crop, no separate records need to be submitted for the second crop and you can receive the rest of the indemnity for the first insured crop.

(C) Any other information we may require to settle the claim.

(ii) Cooperate with us in the investigation or settlement of the claim, and, as often as we reasonably require:

(A) Show us the damaged crop;

(B) Allow us to remove samples of the insured crop; and

(C) Provide us with records and documents we request and permit us to make copies.

(iii) Establish:

(A) The total production or value received for the insured crop on the unit;

(B) That any loss of production or value occurred during the insurance period;

(C) That the loss of production or value was directly caused by one or more of the insured causes specified in the Crop Provisions; and

(D) That you have complied with all provisions of this policy.

(iv) Upon our request; or that of any USDA employee authorized to conduct investigations of the crop insurance program, submit to an examination under oath.

(5) Failure to meet any burden on you contained in section 14(e)(4) will result in denial of the claim and any premium will still be owed for the crop year, unless another sanction is specified in this section.

Our Duties—

* * * * *

(j) For revenue protection, we may make preliminary indemnity payments for crop production losses prior to the release of the harvest price if you have not elected the harvest price exclusion option.

(1) First, we may pay an initial indemnity based upon your projected price, in accordance with the applicable Crop Provisions provided that your production to count and share have been established; and

(2) Second, after the harvest price is released, and if it is not equal to the projected price, we will recalculate the indemnity payment and pay any additional indemnity that may be due.

* * * * *

Q. Amend section 15 of § 457.8 as follows:

a. Amend paragraph (b)(1) by adding the following phrase immediately before the semicolon "(If you fail to provide such records, no indemnity will be paid and you will be required to return any previously paid indemnity for the unit that was based on an appraised amount of production.)"; and

b. Revise paragraph (c) to read as follows:

15. Production Included in Determining an Indemnity and Payment Reductions.

* * * * *

(c) If you elect to exclude hail and fire as insured causes of loss and the insured crop is damaged by hail or fire, appraisals will be made as described in our form used to exclude hail and fire.

* * * * *

R. Amend section 17 of § 457.8 as follows:

a. Revise paragraph (a)(1) introductory text;

b. Amend paragraph (a)(2) by adding the word "insurable" after the word "any";

c. Revise paragraph (a)(3);

d. Revise paragraph (b)(4);

e. Amend paragraph (c) by adding an "s" to the word "section" to make it plural and adding the phrase "and 34(f)" after "15(f)";

f. Amend paragraph (d) by redesignating the introductory text as paragraph (1), redesignating paragraphs (1) and (2) as (i) and (ii) respectively, and adding a new introductory text;

g. Revise redesignated paragraphs (d)(1) introductory text and (d)(1)(ii);

h. Add a new paragraph (d)(2);

i. Revise paragraph (e)(1);

j. Amend paragraph (e)(2) by removing the words "the table contained in";

k. Revise paragraph (f)(1) introductory text;

l. Amend paragraph (f)(2) by removing the word "a" after the word "determine" and adding the word "the" in its place;

m. Amend paragraph (f)(3) by adding the word "is" after the phrase "agency, or";

n. Revise paragraph (f)(4);

o. Revise paragraph (f)(6);

p. Revise paragraph (f)(9);

q. Revise paragraph (f)(11);

r. Revise paragraph (h); and

s. Revise paragraph (i)(1).

The revised and added text reads as follows:

17. Prevented Planting

(a) * * *

(1) You are prevented from planting the insured crop on insurable acreage by an insured cause of loss that occurs:

* * * * *

(3) You did not plant the insured crop during or after the late planting period.

Acreage planted to the insured crop during or after the late planting period is covered under the late planting provisions.

(b) * * *

(4) You may not increase your elected or assigned prevented planting coverage level for any crop year if a cause of loss has occurred during the prevented planting insurance period specified in section 17(a)(1)(i) or (ii) and prior to your request to change your prevented planting coverage level.

* * * * *

(d) Prevented planting coverage will be provided against:

(1) Drought, failure of the irrigation water supply, failure or breakdown of irrigation equipment or facilities, or the inability to prepare the land for irrigation using your established irrigation method, due to an insured cause of loss only if, on the final planting date (or within the late planting period if you elect to try to plant the crop):

* * * * *

(ii) For irrigated acreage, due to an insured cause of loss, there is not a reasonable expectation of having adequate water to carry out an irrigated practice, irrigation equipment or facilities have failed or broken down, or you are unable to prepare the land for irrigation using your established irrigation method, as specified in section 12(d).

(A) If you knew or had reason to know on the final planting date or during the late planting period that your water will be reduced, no reasonable expectation exists.

(B) Available water resources will be verified using information from State Departments of Water Resources, U.S. Bureau of Reclamation, Natural Resources Conservation Service or other sources whose business includes collection of water data or regulation of water resources.

(2) Causes other than drought, failure of the irrigation water supply, failure or breakdown of the irrigation equipment, or your inability to prepare the land for irrigation using your established irrigation method, provided the cause of loss is specified in the Crop Provisions. However, if it is possible for you to plant on or prior to the final planting date when other producers in the area are planting and you fail to plant, no prevented planting payment will be made.

(e) * * *

(1) The total number of acres eligible for prevented planting coverage for all crops cannot exceed the number of acres of cropland in your farming operation for the crop year, unless you are eligible for prevented planting coverage on double cropped acreage in accordance with section 17(f)(4). The eligible acres for each insured crop will be determined as follows:

(i) If you have planted any crop in the county for which prevented planting insurance was available (you will be considered to have planted if your APH database contains actual planted acres) or have received a prevented planting insurance guarantee in any of the 4 most recent crop years, and the insured crop is not required to be contracted with a processor to be insured:

(A) The number of eligible acres will be the maximum number of acres certified for APH purposes, or insured acres reported, for the crop in any one of the 4 most recent crop years (not including reported prevented planting acreage that was planted to a second crop unless you meet the double cropping requirements in section 17(f)(4)) and not including prevented planting acreage for which payment is made based on another crop as described in section 17(h). For example, if payment for 100 acres of prevented planting corn is based on 50 acres of corn and 50 acres of soybeans, 50 acres of corn will be considered when determining eligible corn acres for subsequent years and 50 acres of soybeans will be considered when determining eligible soybean acres for subsequent years.

(B) If you acquire additional land for the current crop year, the number of eligible acres determined in section 17(e)(1)(i) for a crop may be increased by multiplying it by the ratio of the total cropland acres that you are farming this year (if greater) to the total cropland acres that you farmed in the previous year, provided that:

(*1*) You submit proof to us that you acquired additional acreage for the current crop year by any of the methods specified in section 17(f)(12);

(*2*) The additional acreage was acquired in time to plant it for the current crop year using good farming practices; and

(*3*) No cause of loss has occurred at the time you acquire the acreage that may prevent planting (except acreage you lease the previous year and continue to lease in the current crop year).

(C) If you add adequate irrigation facilities to your existing non-irrigated acreage or if you acquired additional land for the current crop year that has adequate irrigation facilities, the number of eligible acres determined in section 17(e)(1)(i) for irrigated acreage of a crop may be increased by multiplying it by the ratio of the total irrigated acres that you are farming this year (if greater) to the total irrigated acres that you farmed in the previous year, provided the conditions in sections 17(e)(1)(i)(B)(*1*), (*2*) and (*3*) are met. If there were no irrigated acres in the previous year, the eligible irrigated acres for a crop will be limited to the lesser of the number of eligible non-irrigated acres of the crop or the number of acres on which adequate irrigation facilities were added.

(ii) If you have not planted any crop in the county for which prevented planting insurance was available or have not received a prevented planting insurance guarantee in any of the 4 most recent crop years, and the insured crop is not required to be contracted with a processor to be insured:

(A) The number of eligible acres will be:

(*1*) The number of acres specified on your intended acreage report, which must be submitted to us by the sales closing date for all crops you insure for the crop year and accepted by us; or

(*2*) The number of acres specified on your intended acreage report, which must be submitted to us within 10 days of the time you obtain the acreage and that is accepted by us, if, on the sales closing date, you do not have any acreage in a county and you subsequently obtain acreage through a method described in section 17(f)(12) in time to plant it using good farming practices.

(B) The total number of acres listed on the intended acreage report may not exceed the number of acres of cropland in your farming operation at the time you submit the intended acreage report.

(C) If you obtain additional acreage after we accept your intended acreage report, the number of acres determined in section 17(e)(1)(ii)(A) may be increased in accordance with section 17(e)(1)(i)(B) and (C).

(D) Prevented planting coverage will not be provided for any acreage included on the intended acreage report or any increased amount of acreage determined in accordance with section 17(e)(1)(ii)(C) if a cause of loss that may prevent planting occurred before the acreage was acquired, as determined by us.

(iii) For any crop that must be contracted with a processor to be insured:

(A) The number of eligible acres will be:

(*1*) The number of acres of the crop specified in the processor contract, if the contract specifies a number of acres contracted for the crop year;

(*2*) The result of dividing the quantity of production stated in the processor contract by your approved yield, if the processor contract specifies a quantity of production that will be accepted (for the purposes of establishing the number of prevented planting acres, any reductions applied to the transitional yield for failure to certify acreage and production for four prior years will not be used); or

(*3*) Notwithstanding sections 17(e)(1)(iii)(A)(*1*) and (*2*), if a minimum number of acres or amount of production is specified in the processor contract, this amount will be used to determine the eligible acres.

(B) If a processor cancels or does not provide contracts, or reduces the contracted acreage or production from what would have otherwise been allowed, solely because the acreage was prevented from being planted due to an insured cause of loss, we will determine the number of eligible acres based on the number of acres or amount of production you had contracted in the county in the previous crop year. If the applicable crop provisions require that the price election be based on a contract price, and a contract is not in force for the current year, the price election will be based on the contract price in place for the previous crop year. If you did not have a processor contract in place for the previous crop year, you will not have any eligible prevented planting acreage for the applicable processor crop. The total eligible prevented planting acres in all counties cannot exceed the total number of acres or amount of production contracted in all counties in the previous crop year.

* * * * *

(f) * * *

(1) That does not constitute at least 20 acres or 20 percent of the insurable crop acreage in the unit, whichever is less (if the crop is in a whole-farm unit, the 20-acre or 20 percent requirement will be applied separately to each crop in the whole-farm unit). Any prevented planting acreage within

a field that contains planted acreage will be considered to be acreage of the same crop, type, and practice that is planted in the field unless:

* * * * *

(4) On which the insured crop is prevented from being planted, if you or any other person receives a prevented planting payment for any crop for the same acreage in the same crop year, excluding share arrangements, unless:

(i) It is a practice that is generally recognized by agricultural experts or the organic agricultural industry in the area to plant the second crop for harvest following harvest of the first insured crop, and additional coverage insurance offered under the authority of the Act is available in the county for both crops in the same crop year;

(ii) You provide records acceptable to us of acreage and production that show you have double cropped acreage in at least two of the last four crop years in which the second crop that was prevented from being planted (the crop that was prevented from being planted following another crop that was planted if qualifying under section 17(f)(5)(i)(A)) was planted, or show the applicable acreage was double cropped in at least two of the last four crop years in which the second crop that was prevented from being planted (the crop that was prevented from being planted following another crop that was planted if qualifying under section 17(f)(5)(i)(A)) was grown on it; and

(iii) The amount of acreage you are double-cropping in the current crop year does not exceed the number of acres for which you provide the records required in section 17(f)(4)(ii);

* * * * *

(6) For which planting history or conservation plans indicate that the acreage would have remained fallow for crop rotation purposes or on which any pasture or other forage crop is in place on the acreage during the time that planting of the insured crop generally occurs in the area.

(i) Cover or volunteer plants that are seeded, transplanted, or that volunteer more than 12 months prior to the final planting date for the insured crop that was prevented from being planted will be considered pasture or other forage crop that is in place (For example, the cover crop is planted 15 months prior to the final planting date and remains in place during the time the insured crop would normally be planted); and

(ii) Cover or volunteer plants that are seeded, transplanted, or that volunteer less than 12 months prior to the final planting date for the insured crop that was prevented from being planted will not be considered pasture or other forage crop that is in place;

* * * * *

(9) For which you cannot provide proof that you had the inputs available to plant and produce a crop with the expectation of at least producing the yield used to determine your production guarantee or amount of insurance.

(i) Inputs include, but are not limited to, sufficient equipment and manpower necessary to plant and produce a crop with the expectation of at least producing the yield used to determine your production guarantee or amount of insurance.

(ii) Evidence that you previously had planted the crop on the unit will be considered adequate proof unless:

(A) There has been a substantial change in the availability of inputs since the crop was last planted;

(B) You have insufficient inputs to plant the number of acres for which you are claiming prevented planting; or

(C) Your planting practices or rotational requirements show that the acreage would have remained fallow or been planted to another crop;

* * * * *

(11) Based on a crop type that you did not plant, or did not receive a prevented planting insurance guarantee for, in at least one of the four most recent crop years:

(i) Types for which separate projected prices or price elections, as applicable, amounts of insurance, or production guarantees are available must be included in your APH database in at least one of the four most recent crop years (Crops for which the insurance guarantee is not based on APH must be reported on your acreage report in at least one of the four most recent crop years) except as allowed in section 17(e)(1)(ii) or (iii); and

(ii) We will limit prevented planting payments based on a specific crop type to the number of acres allowed for that crop type as specified in sections 17(e) and (f); or

* * * * *

(h) If you are prevented from planting a crop for which you do not have an adequate base of eligible prevented planting acreage, as determined in accordance with section 17(e)(1), your eligible prevented planting acreage will be based on the crops insured for the current crop year for which you have remaining eligible prevented planting acreage:

(1) Your prevented planting payment will be based on the crop with the prevented planting payment most similar to the prevented planting payment that would have been made for the crop that was prevented from being planted:

(i) For crops whose remaining eligible prevented planting acreage will result in a higher prevented planting payment than would be paid for the crop that was prevented from being planted:

(A) The prevented planting payment will be determined by:

(*1*) Dividing the prevented planting payment for the crop that was prevented from being planted by the prevented planting payment for the crop whose eligible acres are being used; and

(*2*) Multiplying the result of section 17(h)(1)(i)(A)(*1*) by the prevented planting payment for the crop whose eligible acres are being used.

(B) The premium amount will be determined by multiplying the premium for the crop whose eligible acres are being used by the result of section 17(h)(1)(i)(A)(*1*).

(ii) For crops whose remaining eligible prevented planting acreage will result in a lower prevented planting payment than would be paid for the crop that was prevented from being planted, the prevented planting payment and the premium will be based on the crop whose eligible acres are being used.

(2) For example, assume you were prevented from planting 200 acres of corn and have 100 acres eligible for a corn prevented planting guarantee that would result in a payment of $40 per acre. You also had 50 acres of potato eligibility that would result in a $100 per acre payment and 90 acres of grain sorghum eligibility that would result in a $30 per acre payment. Your prevented planting coverage for the 200 acres would be based on 100 acres of corn ($40 per acre), 90 acres of grain sorghum ($30 per acre), and 10 acres of potatoes ($40 per acre).

(3) Prevented planting coverage will be allowed as specified in section 17(h) only if the crop that was prevented from being planted meets all the policy provisions, except for having an adequate base of eligible prevented planting acreage. Payment may be made based on crops other than those that were prevented from being planted even though other policy provisions, including but not limited to, processor contract and rotation requirements, have not been met for the crop whose eligible acres are being used.

(4) An additional administrative fee will not be due as a result of using eligible prevented planting acreage as specified in section 17(h).

* * * * *

(i) * * *

(1) Multiplying the prevented planting coverage level percentage you elected, or that is contained in the Crop Provisions if you did not elect a prevented planting coverage level percentage, by:

(i) Your amount of insurance per acre; or

(ii) The amount determined by:

(A) For crops for which revenue protection is not available or an amount of insurance is not applicable, multiplying the production guarantee (per acre) for timely planted acreage of the insured crop (or type, if applicable) by your price election; or

(B) For crops for which revenue protection is available, multiplying the production guarantee (per acre) for timely planted acreage of the insured crop (or type, if applicable) by your projected price;

* * * * *

5. Amend section 18 of § 457.8 as follows:

a. Revise paragraph (c);

b. Revise paragraph (e)(2)(i)(A);

c. Amend paragraph (e)(2)(i)(B) by removing the phrase "change a tobacco classification,";

d. Amend paragraph (e)(2)(ii) by adding the phrase "or to insure a practice, type or variety where the actuarial documents in another county do not permit coverage" before the semicolon at the end of the paragraph;

e. Amend paragraph (f)(1)(ii) by adding the phrase "in which the crop was planted" between the phrases "crop year" and "during the base period";

f. Revise paragraph (f)(1)(iv);

g. Amend paragraph (f)(2)(i) by adding the phrase "signed by you" after the phrase "A completed APH form";

h. Amend paragraph (g)(2) by removing the word "or" after the semicolon;

i. Amend paragraph (g)(3) by adding the word "or" after the semicolon;

j. Add a new paragraph (g)(4);

k. Amend paragraph (i)(2) by removing the phrase "sent to us" and adding the word "postmarked" in its place;

l. Amend paragraph (j) by removing the word "Multiyear" and adding the word "Multi-year" in its place;

m. Amend paragraph (m) by removing the word "and" after the semicolon;

n. Amend paragraph (n) by removing the period at the end of the current text, and adding the term "; and" in its place; and

o. Add a new paragraph (o).

The revised and added text reads as follows:

18. Written Agreements

* * * * *

(c) If approved by FCIC, the written agreement will include all variable terms of the contract, including, but not limited to, crop practice, type or variety, the guarantee (except for a written agreement in effect for more than one year) and premium rate or information needed to determine the guarantee and premium rate, and projected and harvest prices in accordance with the Commodity Exchange Price Provisions, price election or amount of insurance, as applicable. If the written agreement is for a:

(1) County that has a price election stated in the actuarial documents, or an addendum thereto, for the crop, type, practice or variety, the written agreement will contain the price election stated in such actuarial documents for the crop, type or variety;

(2) County that does not have price elections stated on the actuarial documents, or an addendum thereto, for the crop, type, practice or variety, the written agreement will contain a price election that does not exceed the price election contained in the actuarial documents for the county that is used to establish the other terms of the written agreement;

(3) County for which revenue protection is not available for the crop but revenue protection is available in the state for the crop:

(i) If yield protection is selected, the written agreement will contain the projected price, in accordance with the Commodity Exchange Price Provisions, for the state for the crop and no harvest price will be applicable; and

(ii) If revenue protection is selected, the written agreement will contain the projected price, in accordance with the Commodity Exchange Price Provisions, for the state for the crop and the harvest price will be applicable;

(4) County for which revenue protection is not available, and revenue protection is not available in the state for the crop, the written agreement is available for yield protection only and will contain the projected price from the nearest state for the crop; and

(5) Crop and the projected price, in accordance with the Commodity Exchange Price Provisions, or price election, as applicable, determined in accordance with sections 18(c)(1) through (4) is not appropriate for the crop, the written agreement will not be approved;

* * * * *

(e) * * *

(2) * * *

(i) * * *

(A) Insure unrated land, except acreage that qualifies under section 9(a)(1), or an unrated practice, type or variety of a crop (Such written agreements may be approved only after inspection of the acreage by us, if required by FCIC, and the written agreement may only be approved by FCIC if the crop's potential is equal to or exceeds 90 percent of the yield used to determine your production guarantee or amount of insurance and you sign the agreement on the day the first field is appraised or by the expiration date, whichever comes first; or

* * * * *

(f) * * *

(1) * * *

(iv) The legal description of the land (in areas where legal descriptions are available) and the FSA Farm Serial Number including tract and field or common land unit number, if available. The submission must also include an FSA aerial photograph, or field boundaries derived by a Geographic Information System or Global Positioning System, or other legible maps delineating field boundaries where you intend to plant the crop for which insurance is requested;

* * * * *

(g) * * *

(4) The request is not authorized by the policy;

* * * * *

(o) If you disagree with any determination made by FCIC under section 18, you may obtain administrative review in accordance with 7 CFR part 400, subpart J or appeal in accordance with 7 CFR part 11, unless you have failed to comply with the provisions contained in section 18(g) or section 18(i)(2) or (3).

* * * * *

T. Amend section 20 (For FCIC policies) of § 457.8 as follows:

a. Revise paragraph (b)(1);

b. Revise paragraph (c); and

c. Redesignate paragraphs (d) and (e) as paragraphs (e) and (f), respectively, and add a new paragraph (d).

The revised and added text reads as follows:

[For FCIC Policies]

20. Appeal, Reconsideration, Administrative and Judicial Review.

* * * * *

(b) * * *

(1) Except for determinations specified in section 18(g), section 18(i)(2) or (3) or section 20(b)(2), obtain an administrative review in accordance with 7 CFR part 400, subpart J (administrative review) or appeal in accordance with 7 CFR part 11 (appeal); or

* * * * *

(c) If you fail to exhaust your right to appeal, you will not be able to resolve the dispute through judicial review.

(d) You are not required to exhaust your right to reconsideration prior to seeking judicial review. If you do not request reconsideration and you elect to file suit, such suit must be brought in accordance with section 20(e)(2) and must be filed not later than one year after the date the determination regarding whether you used good farming practices was made.

* * * * *

U. Amend section 20 (For reinsured policies) of § 457.8 as follows:

a. Revise paragraphs (d) and (e); and

b. Amend paragraph (j) by removing the phrase "elects to participate in the adjustment of your claim, or" and by removing the comma after the phrase "corrects your claim".

The revised text reads as follows:

[For Reinsured Policies]

20. Mediation, Arbitration, Appeal, Reconsideration, and Administrative and Judicial Review.

* * * * *

(d) With respect to good farming practices:

(1) We will make decisions regarding what constitutes a good farming practice and determinations of assigned production for uninsured causes for your failure to use good farming practices.

(i) If you disagree with our decision of what constitutes a good farming practice, you must request a determination from FCIC of what constitutes a good farming practice before filing any suit against FCIC.

(ii) If you disagree with our determination of the amount of assigned production, you must use the arbitration or mediation process contained in this section.

(iii) You may not sue us for our decisions regarding whether good farming practices were used by you.

(2) FCIC will make determinations regarding what constitutes a good farming practice. If you do not agree with any determination made by FCIC:

(i) You may request reconsideration by FCIC of this determination in accordance with the reconsideration process established for this purpose and published at 7 CFR part 400, subpart J; or

(ii) You may file suit against FCIC.

(A) You are not required to request reconsideration from FCIC before filing suit.

(B) Any suit must be brought against FCIC in the United States district court for the district in which the insured acreage is located.

(C) Suit must be filed against FCIC not later than one year after the date:

(*1*) Of the determination; or

(*2*) Reconsideration is completed, if reconsideration was requested under section 20(d)(2)(i).

(e) Except as provided in sections 18(n), 18(o), or 20(d), if you disagree with any other determination made by FCIC, you may obtain an administrative review in accordance with 7 CFR part 400, subpart J (administrative review) or appeal in accordance with 7 CFR part 11 (appeal). If you elect to bring suit

after completion of any appeal, such suit must be filed against FCIC not later than one year after the date of the decision rendered in such appeal. Under no circumstances can you recover any attorney fees or other expenses, or any punitive, compensatory or any other damages from FCIC.

* * * * *

V. Amend section 21 of § 457.8 as follows:

a. Revise paragraph (b)(2); and

b. Add a new paragraph (b)(3).

The revised and added text reads as follows:

21. Access to Insured Crop and Records, and Record Retention.

* * * * *

(b) * * *

(2) All records used to establish the amount of production you certified on your production reports used to compute your approved yield for three years after the calendar date for the end of the insurance period for the crop year for which you initially certified such records, unless such records have already been provided to us (For example, if you are a new insured and you certify 2005 through 2008 crop year production records in 2009 to determine your approved yield for the 2009 crop year, you must retain all records from the 2005 through 2008 crop years through the 2012 crop year. If you subsequently certify records of the 2009 crop year in 2010 to determine your approved yield for the 2010 crop year, you must retain the 2009 crop year records through the 2013 crop year and so forth for each subsequent year of production records certified.); and

(3) If FCIC determines you or anyone assisting you knowingly misreported any information related to any yield you have certified, we may replace all yields in your APH we determine to be incorrect with the lesser of an assigned yield or the yield we determine is correct.

* * * * *

W. Revise section 28 of § 457.8 to read as follows:

28. Transfer of Coverage and Right to Indemnity.

If you sell or lease all or a part of your farming operation to a third party or enter into a relationship with another person to provide them a share of the insured crop after the sales closing date, you may transfer your coverage, or your right to coverage if coverage has not attached at the time of transfer, for your share in the insured crop if the transferee is eligible for crop insurance.

(a) Your selection of revenue protection or yield protection, if revenue protection is available for the crop, approved yield, coverage level, and percentage of price or amount of insurance will apply to the insured crop for which coverage or the right to coverage is transferred.

(b) No indemnity paid for any transferred coverage or right to coverage, will exceed the liability under your policy.

(c) The transfer of coverage or the right to coverage must be on our form and will not be effective until approved by us in writing.

(d) Both you and the transferee are jointly and severally liable for the payment of the premium and administrative fees owed for the coverage or right to coverage that has been transferred. For example, you transfer coverage on 20 acres in a 100 acre unit. The transferee would only be jointly and severally liable for the premium on the 20 acres, not the whole unit.

(e) The transferee has all rights and responsibilities under this policy consistent with the transferee's interest.

X. Revise section 29 of § 457.8 to read as follows:

29. Assignment of Indemnity.

(a) You may assign your right to an indemnity for the crop year only to one or more of your creditors.

(b) All assignments must be on our form and must be provided to us. We will only accept one assignment form for each crop.

(c) We will not make any payment to a lienholder with a lien on an insured crop unless you have executed an assignment of indemnity to that lienholder.

(d) Under no circumstances will we be liable for any amount greater than the amount of indemnity owed under the policy for any assignment of indemnity.

(e) The assignee will have the right to submit all loss notices and forms as required by the policy.

(f) If you have suffered a loss from an insurable cause and fail to file a claim for indemnity within the period specified in section 14(e), the assignee may submit the claim for indemnity not later than 45 days after the period for filing a claim has expired. We will honor the terms of the assignment only if we can accurately determine the amount of the claim. However, no action will lie against us for failure to do so.

* * * * *

Y. Remove and reserve section 30 of § 457.8.

Z. Amend section 34 of § 457.8 as follows:

a. Revise the heading;

b. Amend paragraph (a)(1) by revising the first sentence;

c. Revise paragraphs (a)(2) and (3);

d. Revise paragraph (c)(1); and

e. Add a new paragraph (f).

The revised and added text reads as follows:

34. Units.

(a) * * *

(1) You must make such election on or before the earliest sales closing date for the insured crops in the unit and report such unit structure to us in writing. * * *

* * * * *

(2) For an enterprise unit:

(i) To qualify, an enterprise unit must contain all of the insurable acreage of the same insured crop in:

(A) One or more basic units that are located in two or more separate sections, section equivalents, FSA farm serial numbers, or units established by a written unit agreement, with at least some planted acreage of the insured crop in two or more separate sections, section equivalents, FSA farm serial numbers, or two or more separate units as established by a written unit agreement; or

(B) Two or more optional units established by separate sections, section equivalents, or FSA farm serial numbers, or as established by a written unit agreement, with at least two optional units containing some planted acreage of the insured crop;

(ii) Both a spring type and a winter or fall type of the same insured crop cannot be part of the same enterprise unit (e.g., you may have an enterprise unit for spring wheat and a separate enterprise unit for winter wheat);

(iii) If you want to change your unit structure from enterprise units to basic or optional units in subsequent crop years, you must maintain separate records of acreage and production for such basic or optional units;

(iv) If you do not comply with the production reporting provisions in section 3(e) for the enterprise unit, your yield for the enterprise unit will be determined in accordance with section 3(e)(1);

(v) You must separately designate on the acreage report each basic unit and each section or other basis in section 34(a)(2)(i) you used to qualify for an enterprise unit; and

(vi) At any time we discover you do not qualify for an enterprise unit, we will assign the basic unit structure;

(3) For a whole-farm unit:

(i) To qualify:

(A) All crops in the whole-farm unit eligible for revenue protection must be insured under revenue protection and with us;

(B) A whole-farm unit must contain all of the insurable acreage planted to at least two crops eligible for revenue protection;

(C) You will be required to pay separate administrative fees for each crop included in the whole-farm unit;

(ii) At least two of the insured crops must each have planted acreage liability that constitutes 10 percent or more of the total planted acreage liability of all insured crops in the whole-farm unit;

(iii) Winter or fall types of an insured crop, including, but not limited to, winter wheat, winter barley, and fall canola, cannot be included in a whole-farm unit;

(iv) You must separately designate on the acreage report each basic unit for each crop in the whole-farm unit; and

(v) At any time we discover you do not qualify for a whole-farm unit, we will assign the basic unit structure (e.g., if you elect a whole-farm unit, you plant corn and soybeans for which you have elected revenue protection and both crops planted acreage liability constitutes 10 percent or more of the total planted acreage liability and you plant canola for which you have elected yield protection even though revenue protection is available, you would not qualify for a whole-farm unit and the corn, soybeans and canola would be assigned basic units);

* * * * *

(c) * * *

(1) Optional units may be established if each optional unit is located in a separate section.

(i) In the absence of sections, we may consider as the equivalent of sections for unit purposes:

(A) Except as provided in section 34(c)(1)(i)(B), parcels of land legally identified by other methods of measure (For example, Spanish grants); or

(B) Parcels of land that are grouped together that only have metes and bounds identifiers, in accordance with FCIC approved procedures.

(ii) Each optional unit may be located in a separate Farm Serial Number if:

(A) The area has not been surveyed using sections;

(B) Section equivalents under section 34(c)(1)(i) are not available; or

(C) In areas where boundaries are not readily discernible.

* * * * *

(f) Any unit discounts contained in the actuarial documents will only apply to planted acreage in the applicable unit. A unit discount will not apply to any prevented planting acreage.

AA. Amend section 35 of § 457.8 as follows:

a. Amend paragraph (a) by removing the misspelled word "anadditional" and adding the phrase "an additional" in its place;

b. Revise paragraph (b); and

c. Add a new paragraph (d).

The revised and added text reads as follows:

35. Multiple Benefits.

* * * * *

(b) The total amount received from all such sources may not exceed the amount of your actual loss. The amount of the actual loss is the difference between the total value of the insured crop before the loss and the total value of the insured crop after the loss.

(1) For crops for which revenue protection is not available:

(i) The total value of crops for which you have an approved yield before the loss is your approved yield times the highest price election for the crop;

(ii) The total value of crops for which you have an approved yield after the loss is your production to count times the highest price election for the crop;

(iii) If you have an amount of insurance, the total value before the loss is the highest amount of insurance available for the crop; and

(iv) If you have an amount of insurance, the total value after the loss is the production to count times the price contained in the Crop Provisions for valuing production to count.

(2) For crops for which revenue protection is available and:

(i) You elect yield protection:

(A) The total value of the crop before the loss is your approved yield times the highest projected price for the crop; and

(B) The total value of the crop after the loss is your production to count times the highest projected price for the crop; or

(ii) You elect revenue protection:

(A) The total value of the crop before the loss is your approved yield times the higher of the highest projected or harvest price for the crop (If you have elected the harvest price exclusion option, the highest projected price for the crop will be used); and

(B) The total value of the crop after the loss is your production to count times the highest harvest price for the crop.

* * * * *

(d) Failure to obtain crop insurance may impact your ability to obtain benefits under other USDA programs. You should contact any USDA agency from which you wish to obtain benefits to determine eligibility requirements.

* * * * *

3. Amend § 457.101 as follows:

A. Revise the introductory text of § 457.101 to read as follows:

§ 457.101 Small grains crop insurance.

The small grains crop insurance provisions for the 2009 and succeeding crop years are as follows:

* * * * *

B. Revise section 3 of § 457.101 to read as follows:

3. Insurance Guarantees, Coverage Levels, and Prices for Determining Indemnities.

In addition to the requirements of section 3 of the Basic Provisions:

(a) Revenue protection is not available for your oats, rye, flax, or buckwheat. Therefore, if you elect to insure such crops by the sales closing date, they will only be protected against a loss in yield;

(1) You may select only one price election for each crop of oats, rye, flax, or buckwheat in the county insured under this policy unless the Special Provisions provide different price elections by type, in which case each type must be insured using the price election for the respective type; and

(2) The price election you choose for each type must have the same percentage relationship to the maximum price offered by us for each type. For example, if you choose 100 percent of the maximum price election for one type, you must also choose 100 percent of the maximum price election for all other types.

(b) Revenue protection is available for wheat and barley. Therefore, if you elect to insure your wheat or barley, you must elect to insure your wheat or barley with either revenue protection or yield protection by the sales closing date:

(1) You must select the same percentage for both the projected price and the harvest price;

(2) The projected price and harvest price for each type must have the same percentage relationship to the maximum projected price and harvest price. For example, if you choose 100 percent of the maximum projected price and harvest price for one type, you must also choose 100 percent of the maximum projected price and harvest price for all other types;

(3) In counties with both fall and spring sales closing dates for the insured crop:

(i) If you do not have any insured fall planted acreage of the insured crop, you may change your coverage level, percentage of projected price and harvest price, or elect revenue protection or yield protection until the spring sales closing date; or

(ii) If you have any insured fall planted acreage of the insured crop, you may not change your coverage level, percentage of projected price and harvest price or elect revenue protection or yield protection after the fall sales closing date.

* * * * *

C. Amend "wheat" under section 5 of § 457.101 as follows:

5. Cancellation and Termination Dates.

The cancellation and termination dates are:

Crop, State and County	Cancellation date	Termination date
WHEAT:		
All Colorado counties except Alamosa, Archuleta, Conejos, Costilla, Custer, Delta, Dolores, Eagle, Garfield, Grand, La Plata, Mesa, Moffat, Montezuma, Montrose, Ouray, Pitkin, Rio Blanco, Rio Grande, Routt, Saguache, and San Miguel; all Iowa counties except Plymouth, Cherokee, Buena Vista, Pocahontas, Humbolt, Wright, Franklin, Butler, Black Hawk, Buchanan, Delaware, Dubuque and all Iowa counties north thereof; all Nebraska counties except Box Butte, Dawes, and Sheridan; all Wisconsin counties except Buffalo, Trempealeau, Jackson, Wood, Portage, Waupaca, Outagamie, Brown, Kewaunee and all Wisconsin counties north thereof; all other states except Alaska, Arizona, California, Connecticut, Idaho, Maine, Massachusetts, Minnesota, Montana, Nevada, New Hampshire, New York, North Dakota. Oregon, Rhode Island, South Dakota, Utah, Vermont, Washington, and Wyoming.	September 30	September 30.

Crop, State and County	Cancellation date	Termination date
Del Norte, Humboldt, Lassen, Modoc, Plumas, Shasta, Siskiyou and Trinity Counties, California; Archuleta, Custer, Delta, Dolores, Eagle, Garfield, Grand, La Plata, Mesa, Moffat, Montezuma, Montrose, Ouray, Pitkin, Rio Blanco, Routt, and San Miguel Counties, Colorado; Connecticut; Idaho; Plymouth, Cherokee, Buena Vista, Pocahontas, Humbolt, Wright, Franklin, Butler, Black Hawk, Buchanan, Delaware, and Dubuque Counties, Iowa, and all Iowa counties north thereof; Massachusetts; all Montana counties except Daniels, Roosevelt, Sheridan, and Valley; Box Butte, Dawes, and Sheridan Counties, Nebraska; New York; Oregon; Rhode Island; all South Dakota counties except Corson, Walworth, Edmunds, Faulk, Spink, Beadle, Kingsbury, Miner, McCook, Turner, Yankton and all South Dakota counties north and east thereof; Washington; Buffalo, Trempealeau, Jackson, Wood, Portage, Waupaca, Outagamie, Brown and Kewaunee Counties, Wisconsin, and all Wisconsin counties north thereof; and all Wyoming counties except Big Horn, Fremont, Hot Springs, Park, and Washakie.	September 30	November 30.
Arizona; all California counties except Del Norte, Humboldt, Lassen, Modoc, Plumas, Shasta, Siskiyou and Trinity; Nevada; and Utah.	October 31	November 30.
Alaska; Alamosa, Conejos, Costilla, Rio Grande and Saguache Counties, Colorado; Maine; Minnesota; Daniels, Roosevelt, Sheridan, and Valley Counties, Montana; New Hampshire; North Dakota; Corson, Walworth, Edmunds, Faulk, Spink, Beadle, Kingsbury, Miner, McCook, Turner, and Yankton Counties, South Dakota, and all South Dakota counties north and east thereof; Vermont; and Big Horn, Fremont, Hot Springs, Park, and Washakie Counties, Wyoming.	March 15	March 15.

* * * * *

D. Amend section 6 of § 457.101 by adding a new paragraph (a)(5) to read as follows:

6. Insured Crop.

(a) * * *

(5) Buckwheat will be insured only if it is produced under a contract with a business enterprise equipped with facilities appropriate to handle and store buckwheat production. The contract must be executed by you and the business enterprise, in effect for the crop year, and a copy provided to us no later than the acreage reporting date. To be considered a contract, the executed document must contain:

(i) A requirement that you plant, grow and deliver buckwheat to the business enterprise;

(ii) The amount of production that will be accepted or a statement that all production from a specified number of acres will be accepted;

(iii) The purchase price or a method to determine such price; and

(iv) Other such terms that establish the obligations of each party to the contract.

* * * * *

E. Amend section 7 of § 457.101 as follows:

a. Amend the introductory text by removing the phrases "(Insurance Period)", "(§ 457.8)", and "(§ 457.102)"; and

b. Revise paragraphs (a)(2)(iii) and (v) to read as follows:

7. Insurance Period.

* * * * *

(a) * * *

(2) * * *

(iii) Whenever the Special Provisions designate both fall and spring final planting dates:

(A) Any winter barley or winter wheat that is damaged before the spring final planting date, to the extent that growers in the area would normally not further care for the crop, must be replanted to a winter type of the insured crop to maintain insurance based on the winter type unless we agree that replanting is not practical. If it is not practical to replant to the winter type of wheat or barley but is practical to replant to a spring type, you must replant to a spring type to keep your insurance based on the winter type in force.

(B) Any winter barley or winter wheat acreage that is replanted to a spring type of the same crop when it was practical to replant the winter type will be insured as the spring type and the production guarantee, premium, projected price, and harvest price applicable to the spring type will be used. In this case, the acreage will be considered to be initially planted to the spring type.

(C) Notwithstanding sections 7(a)(2)(iii)(A) and (B), if you have elected coverage under a barley or wheat winter coverage endorsement (if available in the county), insurance will be in accordance with the endorsement.

* * * * *

(v) Whenever the Special Provisions designate only a spring final planting date, any acreage of fall planted barley or fall planted wheat is not insured unless you request such coverage on or before the spring sales closing date, and we agree in writing that the acreage has an adequate stand in the spring to produce the yield used to determine your production guarantee.

(A) The fall planted barley or fall planted wheat will be insured as a spring type for the purpose of the production guarantee, premium, projected price, and harvest price.

(B) Insurance will attach to such acreage on the date we determine an adequate stand exists or on the spring final planting date if we do not determine adequacy of the stand by the spring final planting date.

(C) Any acreage of such fall planted barley or fall planted wheat that is damaged after it is accepted for insurance but before the spring final planting date, to the extent that growers in the area would normally not further care for the crop, must be replanted to a spring type of the insured crop unless we agree it is not practical to replant.

(D) If fall planted acreage is not to be insured it must be recorded on the acreage report as uninsured fall planted acreage.

* * * * *

F. Amend section 8 of § 457.101 as follows:

a. Remove the phrase "(Causes of Loss)" in the introductory text;

b. Remove the word "or" at the end of paragraph (g);

c. Revise paragraph (h); and

d. Add a new paragraph (i).

The revised and added text reads as follows:

8. Causes of Loss.

* * * * *

(h) Failure of the irrigation water supply due to a cause of loss specified in sections 8(a) through (g) that also occurs during the insurance period; or

(i) For revenue protection, a decline in the harvest price below the projected price.

* * * * *

G. Amend section 9 of § 457.101 as follows:

a. Revise paragraph (c);

b. Amend the introductory text of paragraph (e) by adding the phrase "or the projected price, as applicable," after the phrase "price election" in the first sentence, removing the phrase "price election" and adding the phrase "projected price" in its place in the second sentence, and adding the phrase "or projected price, as applicable," after the phrase "price election" in the fourth sentence; and

c. Amend paragraph (e)(1) by adding the phrase "or projected price, as applicable" after the phrase "price election".

The revised text reads as follows:

9. Replanting Payments.

* * * * *

(c) The maximum amount of the replanting payment per acre will be:

(1) The lesser of 20 percent of the production guarantee or the number of bushels for the applicable crop specified below:

(i) 2 bushels for flax or buckwheat;

(ii) 4 bushels for wheat; or

(iii) 5 bushels for barley or oats;

(2) Multiplied by:

(i) Your price election for: oats, flax or buckwheat; or

(ii) Your projected price for wheat or barley; and

(3) Multiplied by your share.

* * * * *

H. Revise section 10 of § 457.101 to read as follows:

10. Duties in the Event of Damage or Loss.

Representative samples are required in accordance with section 14 of the Basic Provisions.

* * * * *

I. Revise section 11(b) of § 457.101 to read as follows:

11. Settlement of Claim.

* * * * *

(b) In the event of loss or damage covered by this policy, we will settle your claim by:

(1) Multiplying the number of insured acres of each insured crop or type, as applicable by your respective:

(i) Production guarantee (per acre) and your applicable:

(A) Projected price for wheat or barley if you elected yield protection; or

(B) Price election for oats, rye, flax, or buckwheat; or

(ii) Revenue protection guarantee (per acre) if you elected revenue protection;

(2) Totaling the results of section 11(b)(1)(i)(A) or (B), or section 11(b)(1)(ii), whichever is applicable;

(3) Multiplying the production to count of each insured crop or type, as applicable, by your respective:

(i) Projected price for wheat or barley if you elected yield protection;

(ii) Price election for oats, rye, flax, or buckwheat; or

(iii) Harvest price if you elected revenue protection;

(4) Totaling the results of section 11(b)(3)(i), (ii), or (iii), whichever is applicable;

(5) Subtracting the result of section 11(b)(4) from the result of section 11(b)(2); and

(6) Multiplying the result of section 11(b)(5) by your share.

For example:

You have 100 percent share in 50 acres of wheat in the unit with a production guarantee (per acre) of 45 bushels, the projected price is $3.40, the harvest price is $3.45, and your production to count is 2,000 bushels.

If you elected yield protection:

(1) 50 acres × 45 bushel production guarantee × $3.40 projected price = $7,650.00 value of the production guarantee.

(3) 2,000 bushel production to count × $3.40 projected price = $6,800.00 value of the production to count.

(5) $7,650.00 − $6,800.00 = $850.00.

(6) $850.00 × 1.000 share = $850.00 indemnity; or

If you elected revenue protection:

(1) 50 acres × (45 bushel production guarantee × $3.45 harvest price) = $7,762.50 revenue protection guarantee.

(3) 2,000 bushel production to count × $3.45 harvest price = $6,900.00 value of the production to count.

(5) $7,762.50 − $6,900.00 = $862.50.

(6) $862.50 × 1.000 share = $863.00 indemnity.

* * * * *

J. Amend section 13(b) of § 457.101 by removing the phrase "limited or".

4. Amend § 457.104 as follows:

A. Revise the introductory text of § 457.104 to read as follows:

§ 457.104 Cotton crop insurance provisions.

The cotton crop insurance provisions for the 2009 and succeeding crop years are as follows:

* * * * *

B. Revise section 2 of § 457.104 to read as follows:

2. Insurance Guarantees, Coverage Levels, and Prices for Determining Indemnities.

(a) You must elect to insure your cotton with either revenue protection or yield protection by the sales closing date; and

(b) In addition to the requirements of section 3 of the Basic Provisions, you must select the same percentage for both the projected price and the harvest price.

* * * * *

C. Revise section 3 of § 457.104 to read as follows:

3. Contract Changes.

In accordance with section 4 of the Basic Provisions, the contract change date is November 30 preceding the cancellation date.

* * * * * *

D. Amend section 4 of § 457.104 by removing the phrases "(Life of Policy, Cancellation and Termination)" and "(§ 457.8)";

E. Revise section 5 of § 457.104 to read as follows:

5. Insured Crop.

In accordance with section 8 of the Basic Provisions, the crop insured will be all the cotton lint, in the county for which premium rates are provided by the actuarial documents:

(a) In which you have a share; and

(b) That is not (unless allowed by the Special Provisions or by written agreement):

(1) Colored cotton lint;

(2) Planted into an established grass or legume;

(3) Interplanted with another spring planted crop; or

(4) Grown on acreage following a small grain crop or harvested hay crop in the same calendar year unless the acreage is irrigated.

* * * * *

F. Amend section 6 of § 457.104 by removing the phrases "(Insurable Acreage)" and "(§ 457.8)" in the introductory text;

G. Amend section 7(b) of § 457.104 by removing the phrases "(Insurance Period)" and "(§ 457.8)" in the introductory text;

H. Amend section 8 of § 457.104 as follows:

a. Remove the phrases "(Causes of Loss)" and "(§ 457.8)" in the introductory text;

b. Remove the word "or" at the end of paragraph (g);

c. Revise paragraph (h); and

d. Add a new paragraph (i).

The revised and added text reads as follows:

8. Causes of Loss.

* * * * *

(h) Failure of the irrigation water supply due to a cause of loss specified in sections 8(a) through (g) that also occurs during the insurance period; or

(i) For revenue protection, a decline in the harvest price below the projected price.

* * * * *

I. Revise section 9 of § 457.104 to read as follows:

9. Duties in the Event of Damage or Loss.

(a) In addition to your duties under section 14 of the Basic Provisions, in the event of damage or loss, the cotton stalks must remain intact for our inspection. The stalks must not be destroyed, and required samples must not be harvested, until the earlier of our inspection or 15 days after harvest of the balance of the unit is completed and written notice of probable loss given to us.

(b) Representative samples are required in accordance with section 14 of the Basic Provisions.

* * * * *

J. Amend section 10 of § 457.104 as follows:

a. Revise paragraphs (a) and (b);

b. Remove the word "of" after the phrase "harvested production" and add the word "or" in its place in paragraph (c)(1)(iv)(A);

c. Remove the phrase "seventy-five percent (75%)" and add the phrase "85 percent" in its place in both places in paragraph (d); and

d. Remove the phrase "contained in the Daily Spot Cotton Quotations published by the USDA Agricultural Marketing Service" and replace it with the phrase "for the Upland Cotton Warehouse Loan Rate published by FSA" in paragraph (d).

The revised text reads as follows:

10. Settlement of Claim.

(a) We will determine your loss on a unit basis. In the event you are unable to provide records of production that are acceptable to us for any:

(1) Optional unit, we will combine all optional units for which acceptable records of production were not provided; or

(2) Basic unit, we will allocate any commingled production to such units in proportion to our liability on the harvested acreage for each unit.

(b) In the event of loss or damage covered by this policy, we will settle your claim by:

(1) Multiplying the number of insured acres by your respective:

(i) Production guarantee (per acre) and your applicable projected price if you elected yield protection; or

(ii) Revenue protection guarantee (per acre) if you elected revenue protection;

(2) Totaling the results of section 10(b)(1)(i) or 10(b)(1)(ii), whichever is applicable;

(3) Multiplying the production to count by your:

(i) Projected price if you elected yield protection; or

(ii) Harvest price if you elected revenue protection;

(4) Totaling the results of section 10(b)(3)(i) or 10(b)(3)(ii), whichever is applicable;

(5) Subtracting the result of section 10(b)(4) from the result of section 10(b)(2); and

(6) Multiplying the result of section 10(b)(5) by your share.

For example:

You have 100 percent share in 50 acres of cotton in the unit with a production guarantee (per acre) of 525 pounds, the projected price is $.65, the harvest price is $.70, and your production to count is 25,000 pounds.

If you elected yield protection:

(1) 50 acres × 525 pound production guarantee × $.65 projected price = $17,062.50 value of the production guarantee.

(3) 25,000 pound production to count × $.65 projected price = $16,250.00 value of production to count.

(5) $17,062.50—$16,250.00 = $812.50.

(6) $812.50 × 1.000 share = $813.00 indemnity; or

If you elected revenue protection:

(1) 50 acres × (525 pound production guarantee × $.70 harvest price) = $18,375.00 revenue protection guarantee.

(3) 25,000 pound production to count × $.70 harvest price = $17,500.00 value of the production to count.

(5) $18,375.00—$17,500.00 = $875.00.

(6) $875.00 × 1.000 share = $875.00 indemnity.

* * * * *

K. Amend section 11(b) of § 457.104 by removing the phrase "limited or".

* * * * *

5. Amend § 457.113 as follows:

A. Revise the introductory text of § 457.113 to read as follows:

§ 457.113 Coarse grains crop insurance provisions.

The coarse grains crop insurance provisions for the 2009 and succeeding crop years are as follows:

* * * * *

B. Amend section 1 of § 457.113 by revising the definition of "planted acreage" and "production guarantee (per acre)" to read as follows:

1. Definitions.

* * * * *

Planted acreage. In addition to the definition contained in the Basic Provisions, coarse grains must initially be planted in rows (corn must be planted in rows far enough apart to permit mechanical cultivation if the specific farming practice you use requires mechanical cultivation to control weeds), unless otherwise provided by the Special Provisions, actuarial documents, or by written agreement.

Production guarantee (per acre). In lieu of the definition contained in the Basic Provisions, the number of bushels (tons for corn insured as silage) determined by multiplying the approved yield per acre by the coverage level percentage you elect.

* * * * *

C. Revise section 2 of § 457.113 to read as follows:

2. Insurance Guarantees, Coverage Levels, and Prices for Determining Indemnities.

In addition to the requirements of section 3 of the Basic Provisions:

(a) You must elect to insure your corn, grain sorghum, or soybeans with either revenue protection or yield protection by the sales closing date;

(b) You must select the same percentage for both the projected price and the harvest price; and

(c) For corn, the projected price and harvest price for grain and silage must have the same percentage relationship to the maximum projected price and harvest price offered by us for grain and silage. For example, if you choose 100 percent of the maximum grain projected price and harvest price and you also insure corn on a silage basis, you must choose 100 percent of the maximum silage projected price and harvest price.

* * * * *

D. Revise section 3 of § 457.113 to read as follows:

3. Contract Changes.

In accordance with section 4 of the Basic Provisions, the contract change date is November 30 preceding the cancellation date.

* * * * *

E. Amend section 4 of § 457.113 as follows:

a. Amend the introductory text by removing the term "(§ 457.8)";

b. Amend paragraph (a) by removing the date of "January 15" and adding "January 31" in its place; and

c. Amend paragraph (b) by removing the date of "February 15" and adding "January 31" in its place.

F. Amend section 5 of § 457.113 as follows:

a. Remove the phrases "(Insured Crop)" and "(§ 457.8)" in the introductory text of paragraph (a);

b. Remove the word "paragraph" and add the word "section" in its place in paragraph (a)(3)(i);

c. Remove the word "subsection" and add the word "section" in its place in both the introductory text of paragraph (b) and paragraph(b)(1);

d. Revise the introductory text of paragraph (b)(2);

e. Remove the phrase "high-oil, high-protein," and add "high-oil or high-protein (except as authorized in section 5(b)(2))," in its place in paragraph (b)(2)(i); and

f. Remove the word "subsection" and add the word "section" in its place in both the introductory text of paragraph (d) and paragraph (e).

The revised text reads as follows:

5. Insured Crop.

* * * * *

(b) * * *

(2) Yellow dent or white corn, including mixed yellow and white, waxy or high-lysine corn, high-oil corn blends containing mixtures of at least 90 percent high yielding yellow dent female plants with high-oil male pollinator plants, or commercial varieties of high-protein hybrids, and excluding:

* * * * *

G. Amend section 7 of § 457.113 as follows:

a. Remove the word "under" and add the word "of" in its place and remove the phrases "(Insurance Period)" and "(§ 457.8)" in the introductory text; and

b. Revise paragraph (b) to read as follows:

7. Insurance Period.

* * * * *

(b) For corn insured as silage:

(1) Connecticut, Delaware, Idaho, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New Mexico, New York, Oklahoma, Oregon, Pennsylvania, Rhode Island, Texas, Vermont, Washington, and West Virginia. October 20.

(2) All other states. September 30.

* * * * *

H. Amend section 8 of § 457.113 as follows:

a. Remove the phrases "(Causes of Loss)" and "(§ 457.8)" in the introductory text;

b. Remove the word "or" at the end of paragraph (g);

c. Revise paragraph (h); and

d. Add a new paragraph (i).

The revised and added text reads as follows:

8. Causes of Loss.

* * * * *

(h) Failure of the irrigation water supply due to a cause of loss specified in sections 8(a) through (g) that also occurs during the insurance period; or

(i) For revenue protection, a decline in the harvest price below the projected price.

* * * * *

I. Revise section 9 of § 457.113 to read as follows:

9. Replanting Payments.

(a) A replanting payment is allowed as follows:

(1) In lieu of provisions in section 13 of the Basic Provisions that limit the amount of a replant payment to the actual cost of replanting, the amount of any replanting

payment will be determined in accordance with these Crop Provisions;

(2) Except as specified in section 9(a)(1), you must comply with all requirements regarding replanting payments contained in section 13 of the Basic Provisions; and

(3) The insured crop must be damaged by an insurable cause of loss to the extent that the remaining stand will not produce at least 90 percent of the production guarantee for the acreage.

(b) The maximum amount of the replanting payment per acre will be the lesser of 20 percent of the production guarantee or the number of bushels (tons for corn insured as silage) for the applicable crop specified below, multiplied by your projected price, multiplied by your share:

(1) 8 bushels for corn grain;

(2) 1 ton for corn silage;

(3) 7 bushels for grain sorghum; and

(4) 3 bushels for soybeans.

(c) When the crop is replanted using a practice that is uninsurable for an original planting, the liability on the unit will be reduced by the amount of the replanting payment. The premium amount will not be reduced.

(d) If the acreage is replanted to an insured crop type that is different than the insured crop type originally planted on the acreage:

(1) The production guarantee, premium, and projected price and harvest price will be adjusted based on the replanted type;

(2) Replanting payments will be calculated using the projected price and production guarantee for the crop type that is replanted and insured; and

(3) A revised acreage report will be required to reflect the replanted type, as applicable.

J. Amend section 10 of § 457.113 as follows:

a. Revise paragraph (a);

b. Revise the introductory text of paragraph (b)(1);

c. Add the phrase "Damage occurs" at the beginning of the paragraph, remove the capital "B" in the word "Before" and add a lower case "b" in its place, and remove the phrase "15 days" and add the phrase "72 hours" in its place in paragraph (b)(1)(i);

d. Remove the word "If" at the beginning of the sentence, remove the lower case "d" in the word "damage" and add a capital "D" in its place, remove the phrase "15 days" and add the phrase "72 hours" in its place, and remove the period at the end and add "; and" in its place in paragraph (b)(1)(ii);

e. Revise paragraph (b)(2); and

f. Add a new paragraph (c).

The revised and added text reads as follows:

10. Duties in the Event of Damage or Loss.

(a) Representative samples are required in accordance with section 14 of the Basic Provisions.

* * * * *

(b) * * *

(1) In lieu of the requirement contained in section 14 of the Basic Provisions to provide notice within 72 hours of your initial discovery of damage (but not later than 72 hours after the end of the insurance period), if:

* * * * *

(2) If you have a unit that has more than one end of the insurance period (*i.e.*, both silage and grain in the same unit), for the purposes of section 14 of the Basic Provisions with respect to the deadline to submit a claim, the end of the insurance period means the latest end of the insurance period applicable to the unit.

(c) In lieu of any policy provision providing otherwise, if you intend to harvest any acreage in a manner other than as you reported it for coverage (*e.g.*, you reported planting it to harvest as grain but will harvest the acreage for silage, or you reported planting it to harvest as silage but will harvest the acreage for grain), you must notify us of your intentions before harvest begins. Failure to timely provide notice will result in production to count determined in accordance with section 11(c)(1)(i)(E).

K. Amend section 11 of § 457.113 as follows:

a. Revise paragraphs (a) and (b);

b. Remove the phrase "(tons for corn silage) (see subsection 11(d))" and add the phrase "(tons for corn insured as silage)" in its place in the introductory text in paragraph (c);

c. Remove the word "or" at the end of paragraph (c)(1)(i)(C);

d. Add the word "or" at the end of paragraph (c)(1)(i)(D);

e. Add a new paragraph (c)(1)(i)(E);

f. Remove the phrase "subsection 11(e)" and add the phrase "section 11(d)" in its place in paragraph (c)(1)(iii);

g. Remove the first sentence and add "Potential production on insured acreage you intend to put to another use or abandon, if you and we agree on the appraised amount of production." in its place, remove the word "if" in the second sentence, and add the word "when" in its place in paragraph (c)(1)(iv);

h. Remove paragraph (d) and redesignate paragraphs (e) through (g) as paragraphs (d) through (f), respectively;

i. Remove the phrase "or harvested" in both places in the introductory text of redesignated paragraph (d) and remove the phrase "subsection 11(f)" and add the phrase "section 11(e)" in its place;

j. Remove the phrase "paragraphs 11.(e)" and add the phrase "sections 11(d)" in its place in redesignated paragraph (d)(4);

k. Remove the phrase "or harvested" in the introductory text of redesignated paragraph (e); and

l. Remove the phrase "September 30 of the crop year" and add the phrase "the calendar date for the end of the insurance period as specified in section 7(b)" in its place in redesignated paragraph (e)(2).

The revised and added text reads as follows:

11. Settlement of Claim.

(a) We will determine your loss on a unit basis. In the event you are unable to provide records of production that are acceptable to us for any:

(1) Optional unit, we will combine all optional units for which acceptable records of production were not provided; or

(2) Basic unit, we will allocate any commingled production to such units in proportion to our liability on the harvested acreage for each unit.

(b) In the event of loss or damage covered by this policy, we will settle your claim by:

(1) Multiplying the number of insured acres of each insured crop or type, as applicable, by your respective:

(i) Production guarantee (per acre) and your applicable projected price if you elected yield protection; or

(ii) Revenue protection guarantee (per acre) if you elected revenue protection;

(2) Totaling the results of section 11(b)(1)(i) or 11(b)(1)(ii), whichever is applicable;

(3) Multiplying the production to count of each insured crop or type, as applicable, by your respective:

(i) Projected price if you elected yield protection; or

(ii) Harvest price if you elected revenue protection;

(4) Totaling the results of section 11(b)(3)(i) or 11(b)(3)(ii), whichever is applicable;

(5) Subtracting the result of section 11(b)(4) from the result of section 11(b)(2); and

(6) Multiplying the result of section 11(b)(5) by your share.

For example:

You have 100 percent share in 50 acres of corn in the unit with a production guarantee (per acre) of 115 bushels, the projected price is $2.25, the harvest price is $2.20, and your production to count is 5,000 bushels.

If you elected yield protection:

(1) 50 acres × 115 bushel production guarantee × $2.25 projected price = $12,937.50 value of the production guarantee.

(3) 5,000 bushel production to count × $2.25 projected price = $11,250.00 value of the production to count.

(5) $12,937.50 − $11,250.00 = $1,687.50.

(6) $1,687.50 × 1.000 share = $1,688.00 indemnity; or

If you elected revenue protection:

(1) 50 acres × (115 bushel production guarantee × $2.25 projected price) = $12,937.50 revenue protection guarantee.

(3) 5,000 bushel production to count × $2.20 harvest price = $11,000.00 value of the production to count.

(5) $12,937.50 − $11,000.00 = $1,937.50.

(6) $1,937.50 × 1.000 share = $1,938.00 indemnity.

(c) * * *

(1) * * *

(i) * * *

(E) For which you fail to give us notice before harvest begins if you report planting

the corn to harvest as grain but harvest it as silage or you report planting the corn to harvest as silage but harvest it as grain.

* * * * *

L. Amend section 12 of § 457.113 by removing the lower case "i" in the word "if", at the beginning of the last sentence, and adding a capital "I" in its place and removing the phrase "limited or'.

6. Revise § 457.118 to read as follows:

§ 457.118 Malting barley price and quality endorsement.

The malting barley price and quality endorsement provisions for the 2009 and succeeding crop years are as follows:

FCIC policies: United States Department of Agriculture, Federal Crop Insurance Corporation

Reinsured policies: (Appropriate title for insurance provider).

Both FCIC and reinsured policies:

Small Grains Crop Insurance Malting Barley Price and Quality Endorsement

(This is a continuous endorsement. Refer to section 2 of the Basic Provisions.)

In return for your payment of premium for the coverage contained herein, this endorsement will be attached to and made part of the Basic Provisions and Small Grains Crop Provisions, subject to the terms and conditions described herein.

1. Definitions.

Additional value price. The value per bushel determined in accordance with section 3 of Option A or section 3 of Option B, as applicable.

Approved malting variety. A variety of barley specified in the Special Provisions.

Brewery. A facility where malt beverages are commercially produced for human consumption.

Contracted production. A quantity of barley the producer agrees to grow and deliver, and the buyer agrees to accept, under the terms of the malting barley contract.

Crop year. In addition to the definition in the Basic Provisions and only for APH purposes under the terms of this endorsement, the period within which the crop is actually grown and designated by the calendar year in which the insured crop is normally harvested.

Licensed grain grader. A person authorized by the U.S. Department of Agriculture to inspect and grade barley in accordance with the U.S. Standards for malt barley.

Malting barley contract. An agreement in writing:

(a) Between the producer and a brewery or a business enterprise that produces or sells malt or malt extract to a brewery, or a business enterprise owned by such brewery or business;

(b) That specifies the amount of contracted production, the purchase price or a method to determine such price; and

(c) That establishes the obligations of each party to the agreement.

Malting barley price agreement. An agreement that meets all conditions required for a malting barley contract except that it is executed with a business enterprise that is not described in the definition of a malting barley contract, but that normally contracts to purchase malting barley production and has facilities appropriate to handle and store malting barley production.

Malt extract. A substance made by adding warm water to ground malt, separating the liquid from the solid, and then condensing the liquid or evaporating it until only a powder remains.

Objective test. A determination made by a qualified person using standardized equipment that is widely used in the malting industry that follows a procedure approved by the:

(a) American Society of Brewing Chemists when determining percent germination;

(b) Federal Grain Inspection Service when determining quality factors other than percent germination; or

(c) Food and Drug Administration (FDA) when determining concentrations of mycotoxins or other substances or conditions identified by the FDA as being injurious to human or animal health.

Subjective test. A determination:

(a) Made by a person using olfactory, visual, touch or feel, masticatory, or other senses unless performed by a licensed grain grader; or

(b) That uses non-standardized equipment; or

(c) That does not follow a procedure approved by the American Society of Brewing Chemists, the Federal Grain Inspection Service, or the Food and Drug Administration.

2. This endorsement provides coverage for malting barley production and quality losses at a price per bushel greater than that offered under the Small Grains Crop Provisions.

3. You must have the Basic Provisions and the Small Grains Crop Insurance Provisions in force to elect to insure malting barley under this endorsement.

4. You must elect either Option A or Option B on or before the sales closing date:

(a) Failure to elect either Option A or Option B, or if you elect Option B but fail to have a malting barley contract in effect by the acreage reporting date, will result in no coverage under this endorsement for the applicable crop year;

(b) If you elect coverage under Option A, and subsequently enter into a malting barley contract, your coverage will continue under the terms of Option A; and

(c) Your election (Option A or B) will continue from year to year unless you cancel or change your election on or before the sales closing date.

5. All acreage in the county planted to approved malting varieties that is insurable under the Small Grains Crop Provisions for feed barley and your elected Option will be insured under this endorsement, except any acreage on which you produce seed under the terms of the seed contract.

6. In lieu of the definitions and provisions regarding units and unit division in the Basic Provisions and the Small Grains Crop Provisions, all approved malting barley acreage in the county that is insured under this endorsement will be considered as one unit regardless of whether such acreage is owned, rented for cash, or rented for a share of the crop. Your shares in the malting barley acreage insured under this endorsement must be designated separately on the acreage report. For example, if you have 100 percent share in 50 acres and 75 percent share in 10 acres you must list the 50 acres separately from the 10 acres on your acreage report and include the percent share for each.

7. You must select a percentage of the additional value price on or before the sales closing date. In the event that you choose a percentage of the additional value price, we will multiply that percentage by the additional value price specified in Options A or B, as applicable, to determine the additional value price that pertains to this endorsement.

8. The additional premium amount for this coverage will be determined by multiplying your malting barley production guarantee (per acre) by your additional value price, by the premium rate, by the acreage planted to approved malting barley varieties, by your share at the time coverage begins. The premium rate you pay will be adjusted by a factor contained in the actuarial table based on your history of fulfilling the production specified in malting barley contracts in prior years, as applicable.

9. In addition to the reporting requirements contained in section 6 of the Basic Provisions, you must provide all the information required by the Option you select.

10. In accordance with section 14 of the Basic Provisions:

(a) We will settle your claim within 30 days if:

(1) All insured production meets the quality criteria specified in section 14(a)(2) of this endorsement; or

(2) It grades U.S. No. 4 or worse in accordance with the grades and grade requirements for the subclasses six-rowed and two-rowed barley, or for the class barley in accordance with the Official United States Standards for Grain; and

(3) It is not accepted by a buyer for malting purposes;

(b) Whenever any production fails one or more of the quality criteria specified in section 14(a)(2) of this endorsement and grades U.S. No. 3 or better, we will not agree upon the amount of loss until the earlier of:

(1) The date you sell, feed, donate, or otherwise utilize such production for any purpose; or

(2) May 31 of the calendar year immediately following the calendar year in which the insured malting barley is normally harvested:

(i) If disposition of the insured crop does not occur by May 31, we may complete your claim in accordance with this endorsement provided you certify, in writing, that the production will not be sold;

(ii) If you do not provide such certification, we will complete your claim; however, no adjustment for quality deficiencies will be made and all remaining unsold insured production will be considered to have met the quality standards specified in this endorsement; and

(iii) If you sell any production you previously certified would not be sold, you must notify us and we will adjust your claim as necessary.

11. This endorsement for malting barley does not provide prevented planting coverage. Such coverage is only provided in accordance with the provisions of the Small Grains Crop Provisions for feed barley.

12. Production from all acreage insured under this endorsement and any production of feed barley varieties must not be commingled prior to our making all determinations under section 14. Failure to keep production separate as required herein will result in denial of your claim for indemnity.

13. In the event of loss or damage covered by this endorsement, we will settle your claim by:

(a) Multiplying the insured acreage by your malting barley production guarantee (per acre) determined in accordance with section 2 of Option A or B, as applicable;

(b) Multiplying the result in section 13(a) by your respective additional value price per bushel;

(c) Multiplying the number of bushels of production to count determined in accordance with section 14 by your additional value price per bushel (If more than one additional value price is applicable, the highest additional value price will be used until the number of bushels covered at the higher additional value price is reached and the remainder of the production will be multiplied by the lower additional value price. For example, if variety A is grown under a malting barley price agreement and 1000 bushels of variety A are insured using an additional value price of $0.68 per bushel but only 500 bushels of variety A are produced, the 500 bushels would be valued at $0.68 per bushel and all other production of other varieties will be valued at the lower additional value price unless such production is acceptable under the terms of the malting barley price agreement, in which case 500 bushels of the other varieties would also be valued at $0.68 per bushel);

(d) Subtracting the result of section 13(c) from the result in section 13(b); and

(e) Multiplying the result of section 13(d) by your share.

14. The amount of production to be counted against your malting barley production guarantee will be determined as follows:

(a) Production to be counted will include all:

(1) Appraised production determined in accordance with sections 11(c)(1)(i), (ii) and (iv) of the Small Grains Crop Provisions;

(2) Harvested production and unharvested production that meets, or would meet if properly handled, either the acceptable percentage or parts per million standard contained in any applicable malting barley contract or malting barley price agreement for protein, plump kernels, thin kernels, germination, blight damage, mold injury or damage, sprout injury, frost injury or damage, and mycotoxins or other substances or conditions identified by the Food and Drug Administration or other public health organizations of the United States as being injurious to human health, or the following quality standards, whichever is less stringent:

	Six-rowed malting barley	Two-rowed malting barley
Protein (dry basis)	14.0% maximum	13.5% maximum
Plump kernels	65.0% minimum	75.0% minimum
Thin kernels	10.0% maximum	10.0% maximum
Germination	95.0% minimum	95.0% minimum
Blight damaged	4.0% maximum	4.0% maximum
Injured by mold	5.0% maximum	5.0% maximum
Mold damaged	0.4% maximum	0.4% maximum
Injured by sprout	1.0% maximum	1.0% maximum
Injured by frost	5.0% maximum	5.0% maximum
Frost damaged	0.4% maximum	0.4% maximum
Mycotoxins	2.0 ppm maximum	2.0 ppm maximum

(3) Harvested production that does not meet the quality standards contained in section 14(a)(2), but is accepted by a buyer. If the price received is less than the total of the additional value price and the feed barley projected price announced by FCIC, the production to be counted may be reduced or the values used to settle the claim may be adjusted in accordance with sections 14(b), (c), and (d).

(b) For the quantity of production that qualifies under section 14(a)(3), the amount of production to count will be determined by:

(1) Subtracting the barley projected price from the sale price per bushel of the damaged production;

(2) Subtracting the weighted average cost per bushel for conditioning the production, if any, (not to exceed the discount you would have received had you sold the barley without conditioning, for example, if the price per bushel of the production without conditioning is $2.80 and the price for such production after conditioning is $2.90, the discount is $0.10 and the cost of conditioning can not exceed $0.10 per bushel) from the result of section 14(b)(1);

(3) Dividing the result of section 14(b)(1) or (2), as applicable, by 100.0 percent of the additional value price (The weighted average additional value price will be used in the event more than one additional value price is applicable, for example, if 1000 bushels of variety A are insured with an additional value price of $0.68 and 500 bushels are insured with an additional value price of $0.40, the weighted average additional value price would be $0.59); and

(4) Multiplying the result of section 14(b)(3) (if less than 0.0 or more than 1.000, no adjustment will be made) by the number of bushels of damaged production.

(c) No reduction in the amount of production to count will be allowed for:

(1) Moisture content;

(2) Damage due to uninsured causes;

(3) Costs or reduced value associated with drying, handling, processing, or quality factors other than those contained in section 14(a)(2); or

(4) Any other costs associated with normal handling and marketing of malting barley.

(d) All grade and quality determinations must be based on the results of objective tests. No indemnity will be paid for any loss established by subjective tests. We may obtain one or more samples of the insured crop and have tests performed at an official grain inspection location established under the U.S. Grain Standards Act or laboratory of our choice to verify the results of any test. In the event of a conflict in the test results, our results will determine the amount of production to be counted.

Option A—(For Malting Barley Production, Regardless of Whether Grown Under a Malting Barley Contract or Price Agreement)

1. To be eligible for coverage under this option:

(a) You must provide us with acceptable records of your sales of malting barley and the number of acres planted to malting varieties for at least the four crop years in your APH database prior to the crop year immediately preceding the current crop year (for example, to determine your production guarantee for the 2009 crop year, records must be provided for the 2004 through the 2007 crop years, if malting barley varieties were planted in each of those crop years);

(1) Failure to provide acceptable records or reports as required herein will make you ineligible for coverage under this endorsement; and

(2) You must provide these records to us no later than the production reporting date specified in the Basic Provisions; and

(b) If you produce malting barley under a malting barley contract or malting barley price agreement, you must provide us with a copy of your current crop year contract or agreement on or before the acreage reporting date if you want to base your additional value price election on such contract or price agreement. All terms and conditions of the contract or agreement, including the contract price or future contract price, must be

specified in the contract or agreement and be effective on or before the acreage reporting date.

2. Your malting barley production guarantee (per acre) will be the lesser of:

(a) The production guarantee (per acre) for feed barley for acreage planted to approved malting varieties calculated in accordance with the Basic Provisions; or

(b) A yield per acre calculated by:

(1) Dividing the number of bushels of malting barley sold each year by the number of acres planted to approved malting barley varieties in each respective year;

(2) Adding the results of section 2(b)(1);

(3) Dividing the result of section 2(b)(2) by the number of years approved malting barley varieties were planted; and

(4) Multiplying the result of section 2(b)(3) by your coverage level.

3. The additional value price per bushel will be determined as follows:

(a) For production grown under a malting barley contract or a malting barley price agreement, the additional value price per bushel will be the following amount, as applicable:

(1) The sale price per bushel established in the malting barley contract or malting barley price agreement (not including discounts or incentives that may apply) minus the projected price for barley;

(2) The amount per bushel for malting barley (not including discounts or incentives that may apply) above a feed barley price that is determined at a later date, provided the method of determining the price is specified in the malting barley contract or malting barley price agreement; or

(3) If your malting barley contract or malting barley price agreement has a variable price option, you must select a price or a method of determining a price that will be treated as the sale price and your additional value price per bushel will be calculated under section 3(a)(1) or (2), as applicable.

(b) The additional value price per bushel designated in the actuarial documents will be used if:

(1) Production is not grown under a malting barley contract or malting barley price agreement; or

(2) The malting barley contract or malting barley price agreement is not provided to us by the acreage reporting date.

(c) Under no circumstances will the additional value price exceed $1.25 per bushel.

(d) The number of bushels eligible for coverage using an additional value price determined in section 3(a) will be the lesser of:

(1) The amount determined by multiplying the number of acres planted to an approved malting barley variety by your malting barley production guarantee (per acre) determined in accordance with section 2; or

(2) The amount determined by multiplying the number of bushels specified in the malting barley contract or malting barley price agreement by your coverage level.

(e) Under no circumstances will the number of bushels determined in section 3(d) that will receive an additional value price determined in accordance with section 3(a) exceed the amount determined by multiplying 125.0 percent of the greatest number of acres that you certified for malting barley APH purposes in any crop year contained in your malting barley APH database by your malting barley production guarantee (per acre) determined in accordance with section 2. Any bushels in excess of this amount will be insured using the additional value price designated in the actuarial documents.

4. Loss Example.

In accordance with section 13, your loss will be calculated as follows:

(a) Assume the following:

(1) A producer has:

(i) 400 acres of barley insured under the Small Grains Crop Provisions, of which 200 acres are planted to feed barley and 200 acres are planted to an approved malting barley variety;

(ii) 100 percent share;

(iii) A feed barley approved yield of 55 bushels per acre;

(iv) A malting barley approved yield, based on malting barley sales records and the number of acres planted to approved malting barley varieties, of 52 bushels per acre;

(v) Selected the 75 percent coverage level; and

(vi) A malting barley price agreement for the sale of 5,720 bushels at $2.72 per bushel;

(2) The projected price is $1.92 per bushel;

(3) The additional value price per bushel from the actuarial documents is $0.40;

(4) In accordance with section 3(a)(1), the additional value price per bushel for production grown under a malting barley price agreement is $0.80 ($2.72 malting barley price agreement price minus $1.92 projected price); and

(5) The total production from the 200 acres of malting barley is 7,250 bushels, all of which fails to meet the quality standards specified in section 14(a) and in the malting barley price agreement:

(i) 4,750 bushels are sold for $2.31 per bushel; and

(ii) After conditioning at a cost of $0.05 per bushel, an additional 2,500 bushels are sold for $2.20 per bushel;

(b) The amount of insurance protection is determined as follows:

(1) 4,290 bushels eligible for coverage using the additional value price from the malting barley price agreement [the lesser of 4,290 bushels (5,720 bushels grown under a malting barley price agreement × .75 coverage level) or 7,800 bushels (200 acres planted to approved malting barley varieties × 39.0 bushel per acre (52 bushels per acre malting barley approved yield x .75 coverage level) malting barley production guarantee)] × $0.80 additional value price = $3,432.00 amount of insurance protection for the bushels grown under the malting barley price agreement;

(2) 3,510 bushels eligible for coverage using the additional value price from the actuarial documents (7,800 bushel total malting barley production guarantee − 4,290 bushels covered using the additional value price from the malting barley price agreement) × $0.40 additional value price = $1,404.00 amount of insurance protection for the bushels not grown under a malting barley price agreement; and

(3) $3,432.00 + $1,404.00 = $4,836.00 total amount of insurance protection for the unit;

(c) In accordance with section 14, the total amount of production to count is determined as follows:

(1) Damaged production that is not reconditioned:

(i) $2.31 price per bushel − $1.92 projected price = $0.39;

(ii) $0.39 ÷ $0.62 weighted average additional value price ($4,836.00 total insurance protection ÷ 7,800 bushel production guarantee = $0.62 weighted average additional value price) = 0.63; and

(iii) 0.63 × 4,750 bushels of damaged production sold at $2.31 = 2,993 bushels of production to count;

(2) Damaged production that is reconditioned:

(i) $2.20 price per bushel − $1.92 projected price = $0.28;

(ii) $0.28 − $0.05 reconditioning cost = $0.23;

(iii) $0.23 ÷ $0.62 weighted average additional value price = $0.37; and

(iv) 0.37 × 2,500 bushels of damaged production sold at $2.20 = 925 bushels of production to count; and

(3) Total production to count is 3,918 bushels (2,993 + 925);

(d) The value of production to count is $3,134.00 (3,918 bushels × $0.80 additional value price (all production to count is valued at the higher additional value price since the amount of production to count did not exceed the number of bushels covered at the higher additional value price)); and

(e) The indemnity amount is $1,702.00 ($4,836.00 total amount of insurance protection for the unit − $3,134.00 value of production to count).

Option B—(For Production Grown Under Malting Barley Contracts Only)

1. To be eligible for coverage under this option:

(a) On or before the sales closing date, you must provide acceptable records of acreage, sales of malting barley, and copies of malting barley contracts for at least the four crop years in your APH database prior to the crop year immediately preceding the current crop year. For example, for the 2009 crop year, production records and malting barley contracts must be provided for the 2004 through the 2007 crop years, if malting barley varieties were planted in each of those crop years:

(1) These records and malting barley contracts will be used to determine your average malting barley contract fulfillment rate and will impact eligibility for coverage under this endorsement or the premium you will pay.

(2) If a malting barley contract was not in effect in any one of the years for which records are required, a default fulfillment rate of 75.0 percent will be assigned for the missing year. The average malting barley contract fulfillment rate will be determined by:

(i) Dividing the number of malting barley bushels produced each year by the number of bushels under contract for the respective year;

(ii) Summing the results of section 1(a)(2)(i); and

(iii) Dividing the results of section 1(a)(2)(ii) by the number of years in the database.

(b) On or before the acreage reporting date, you must provide us a copy of your malting barley contract for the current crop year:

(1) All terms and conditions of the contract, including the contract price or method to determine the price, must be specified in the contract and be effective on or before the acreage reporting date;

(2) If you fail to timely provide the contract, or any terms are omitted, we may elect to determine the relevant information necessary for insurance under Option B, or deny liability; and

(3) Only contracted production or acreage is covered by Option B.

2. Your malting barley production guarantee (per acre) will be the lesser of:

(a) The production guarantee (per acre) for feed barley for acreage planted to approved malting barley varieties calculated in accordance with the Basic Provisions; or

(b) A yield per acre calculated by:

(1) Dividing the number of bushels of contracted production by the number of acres planted to approved malting varieties in the current crop year; and

(2) Multiplying the result of section 2(b)(1) by the coverage level percentage you elected under the Small Grains Crop Provisions.

3. The additional value price per bushel will be the following amount, as applicable:

(a) The sale price per bushel established in the malting barley contract (without regard to discounts or incentives that may apply) minus the projected price for feed barley;

(b) The amount per bushel for malting barley (not including discounts or incentives that may apply) above a feed barley price that is determined at a later date, provided the method of determining the price is specified in the malting barley contract; or

(c) If your malting barley contract has a variable premium price option, you must select a price or a method of determining a price that will be treated as the sale price and your additional value price per bushel will be calculated under section 3(a) or (b), as applicable; and

(d) Under no circumstances will the additional value price per bushel exceed $1.25 per bushel.

4. Loss Example.

In accordance with section 13, your loss will be calculated as follows:

(a) Assume the following:

(1) A producer has:

(i) 400 acres of barley insured under the Small Grains Crop Provisions, of which 200 acres are planted to feed barley and 200 acres are planted to an approved malting barley variety;

(ii) 100 percent share;

(iii) A feed barley approved yield of 55 bushels per acre;

(iv) A malting barley approved yield, based on contracted production and the number of acres planted to approved malting barley varieties of 52 bushels per acre;

(v) Selected the 75 percent coverage level; and

(vi) A malting barley contract for the sale of 10,000 bushels of malting barley at $2.60 per bushel;

(2) The projected price is $1.92 per bushel;

(3) In accordance with section 3, the additional value price per bushel for production grown under the malting barley contract is $0.68 ($2.60 malting barley contract price minus $1.92 projected price); and

(4) The total production from the 200 acres of malting barley is 7,250 bushels, all of which fails to meet the quality standards specified in section 14(a) and in the malting barley contract:

(i) 4,750 bushels are sold for $2.31 per bushel; and

(ii) After conditioning at a cost of $0.05 per bushel, an additional 2,500 bushels are sold for $2.20 per bushel;

(b) In accordance with section 2, the amount of insurance protection is determined as follows:

(1) The lesser of 41.3 bushels per acre production guarantee for feed barley or 37.5 bushels per acre (10,000 bushels contracted ÷ 200 acres = 50.0 bushels per acre and 50.0 × 75 percent coverage level = 37.5);

(2) 37.5 bushels per acre × 200 acres = 7,500 bushels total malting barley production guarantee; and

(3) 7,500 bushels × $0.68 additional value price = $5,100.00 total amount of insurance for the unit;

(c) In accordance with section 14, the total amount of production to count is determined as follows:

(1) Damaged production that is not reconditioned:

(i) $2.31 price per bushel − $1.92 projected price = $0.39;

(ii) $0.39 ÷ $0.68 additional value price = 0.57; and

(iii) 0.57 × 4,750 bushels of damaged production sold at $2.31 = 2,708 bushels of production to count;

(2) Damaged production that is reconditioned:

(i) $2.20 price per bushel − $1.92 projected price = $0.28;

(ii) $0.28 − $0.05 reconditioning cost = $0.23;

(iii) $0.23 ÷ $0.68 additional value price = 0.34; and

(iv) 0.34 × 2,500 bushels of damaged production sold at $2.20 = 850 bushels of production to count; and

(3) Total production to count is 3,558 bushels (2,708 + 850);

(d) The value of production to count is $2,419.00 (3,558 bushels × $0.68 additional value price); and

(e) The indemnity amount is $2,681.00 ($5,100.00 total amount of insurance protection for the unit − $2,419.00 value of production to count).

* * * * *

7. Amend § 457.141 as follows:

A. Revise the introductory text of § 457.141 to read as follows:

§ 457.141 Rice crop insurance provisions.

The rice crop insurance provisions for the 2009 and succeeding crop years are as follows:

* * * * *

B. Revise section 3 of § 457.141 to read as follows:

3. Insurance Guarantees, Coverage Levels, and Prices for Determining Indemnities.

(a) You must elect to insure your rice with either revenue protection or yield protection by the sales closing date.

(b) In addition to the requirements of section 3 of the Basic Provisions:

(1) You must select the same percentage for both the projected price and the harvest price; and

(2) The projected price and harvest price for each type must have the same percentage relationship to the maximum projected price and harvest price. For example, if you choose 100 percent of the maximum projected price and harvest price for one type, you must also choose 100 percent of the maximum projected price and harvest price for all other types.

* * * * *

C. Amend section 4 of § 457.141 by removing the phrases "(Contract Changes)" and "(§ 457.8)";

D. Amend section 5 of § 457.141 by removing the phrases "(Life of Policy, Cancellation and Termination)" and "(§ 457.8)";

E. Amend section 6 of § 457.141 by removing the phrases "(Insured Crop)" and "(§ 457.8)" and adding the phrase "or by written agreement" at the end of the introductory text;

F. Amend section 7 of § 457.141 by removing the phrases "(Insurable Acreage)" and "(§ 457.8)" in the introductory text;

G. Amend section 8 of § 457.141 by removing the phrases "(Insurance Period)" and "(§ 457.8)";

H. Amend section 9 of § 457.141 as follows:

a. Remove the phrases "(Causes of Loss)" and "(§ 457.8)" in the introductory text of paragraph (a);

b. Remove the word "or" at the end of paragraph (a)(7); c. Remove the period at the end of paragraph (a)(8) and add "; or" in its place; and d. Add a new paragraph (a)(9) to read as follows:

9. Causes of Loss.

* * * * *

(a) * * *

(9) For revenue protection, a decline in the harvest price below the projected price.

* * * * *

I. Revise section 10 of § 457.141 to read as follows:

10. Replanting Payment.

(a) A replanting payment is allowed as follows:

(1) In lieu of provisions in section 13 of the Basic Provisions that limit the amount of a replant payment to the actual cost of replanting, the amount of any replanting payment will be determined in accordance with these Crop Provisions;

(2) Except as specified in section 10(a)(1), you must comply with all requirements regarding replanting payments contained in section 13 of the Basic Provisions;

(3) The insured crop must be damaged by an insurable cause of loss to the extent that

the remaining stand will not produce at least 90 percent of the production guarantee for the acreage; and

(4) The replanted crop must be seeded at a rate that is normal for initially planted rice (if new seed is planted at a reduced seeding rate into a partially damaged stand of rice, the acreage will not be eligible for a replanting payment).

(b) The maximum amount of the replanting payment per acre will be the lesser of 20 percent of the production guarantee or 400 pounds, multiplied by your projected price, multiplied by your share.

(c) When the crop is replanted using a practice that is uninsurable for an original planting, the liability on the unit will be reduced by the amount of the replanting payment. The premium amount will not be reduced.

J. Revise section 11 of § 457.141 to read as follows:

11. Duties in the Event of Damage or Loss.

Representative samples are required in accordance with section 14 of the Basic Provisions.

K. Revise sections 12(a) and (b) of § 457.141 to read as follows:

12. Settlement of Claim

(a) We will determine your loss on a unit basis. In the event you are unable to provide records of production that are acceptable to us for any:

(1) Optional unit, we will combine all optional units for which acceptable records of production were not provided; or

(2) Basic unit, we will allocate any commingled production to such units in proportion to our liability on the harvested acreage for each unit.

(b) In the event of loss or damage covered by this policy, we will settle your claim by:

(1) Multiplying the number of insured acres by your respective:

(i) Production guarantee (per acre) and your applicable projected price if you elected yield protection; or

(ii) Revenue protection guarantee (per acre) if you elected revenue protection;

(2) Totaling the results of section 12(b)(1)(i) or 12(b)(1)(ii), whichever is applicable;

(3) Multiplying the production to count by your:

(i) Projected price if you elected yield protection; or

(ii) Harvest price if you elected revenue protection;

(4) Totaling the results of section 12(b)(3)(i) or 12(b)(3)(ii), whichever is applicable;

(5) Subtracting the result of section 12(b)(4) from the result of section 12(b)(2); and

(6) Multiplying the result of section 12(b)(5) by your share.

For example:

You have 100 percent share in 50 acres of rice in the unit with a production guarantee (per acre) of 3,750 pounds, the projected price is $.0750, the harvest price is $.0700, and your production to count is 150,000 pounds.

If you elected yield protection:

(1) 50 acres × 3,750 pound production guarantee × $.0750 projected price = $14,062.50 value of the production guarantee

(3) 150,000 pound production to count × $.0750 projected price = $11,250.00 value of the production to count

(5) $14,062.50 − $11,250.00 = $2,812.50

(6) $2,812.50 × 1.000 share = $2,813.00 indemnity; or

If you elected revenue protection:

(1) 50 acres × (3,750 pound production guarantee × $.0750 projected price) = $14,062.50 revenue protection guarantee

(3) 150,000 pound production to count × $.0700 harvest price = $10,500.00 value of the production to count

(5) $14,062.50 − $10,500.00 = $3,562.50

(6) $3,562.50 × 1.000 share = $3,563.00 indemnity.

* * * * *

L. Amend section 13 of § 457.141 by removing the phrase "limited or".

8. Amend § 457.161 as follows:

A. Revise the introductory text of § 457.161 to read as follows:

§ 457.161 Canola and rapeseed crop insurance provisions.

The canola and rapeseed crop insurance provisions for the 2009 and succeeding crop years are as follows:

* * * * *

B. Revise section 3 of § 457.161 to read as follows:

3. Insurance Guarantees, Coverage Levels, and Prices for Determining Indemnities.

(a) You must elect to insure your canola and rapeseed with either revenue protection or yield protection by the sales closing date.

(b) In addition to the requirements of section 3 of the Basic Provisions:

(1) You must select the same percentage for both the projected price and the harvest price; and

(2) The percentage of the projected price and harvest price you choose for each type must have the same percentage relationship to the maximum price offered by us for each type. For example, if you choose 100 percent of the maximum projected price and harvest price for a specific type, you must also choose 100 percent of the maximum projected price and harvest price for all other types.

* * * * *

C. Revise section 6 of § 457.161 to read as follows:

6. Insured Crop.

(a) In accordance with section 8 of the Basic Provisions, the crop insured will be all the canola and rapeseed in the county for which a premium rate is provided by the actuarial table:

(1) In which you have a share;

(2) That are planted for harvest as seed; and

(3) That are not, unless allowed by Special Provisions or by written agreement:

(i) Interplanted with another crop; or

(ii) Planted into an established grass or legume.

(b) Whenever the Special Provisions designate both fall and spring final planting dates, any fall canola or fall rapeseed that is damaged before the spring final planting date, to the extent that growers in the area would normally not further care for the crop:

(1) Must be replanted to a fall type of the insured crop unless we agree that replanting is not practical; or

(2) Must be replanted to a spring type of the insured crop, if it is practical to replant to a spring type and is not practical to replant to the fall type, to keep your insurance based on the fall type in force; and

(3) That is replanted to a spring type of the same crop when it was practical to replant the fall type:

(i) Will be insured as the spring type;

(ii) Will use the production guarantee, premium, projected price, and harvest price applicable to the spring type; and

(iii) Will be considered to be initially planted to the spring type.

* * * * *

D. Amend section 9 of § 457.161 as follows:

a. Remove the word "or" at the end of paragraph (g);

b. Revise paragraph (h); and

c. Add a new paragraph (i).

The revised and added text reads as follows:

9. Causes of Loss.

* * * * *

(h) Failure of the irrigation water supply due to a cause of loss specified in sections 9(a) through (g) that also occurs during the insurance period; or

(i) For revenue protection, a decline in the harvest price below the projected price.

E. Revise section 10 of § 457.161 to read as follows:

10. Replanting Payment.

(a) A replanting payment is allowed as follows:

(1) In lieu of provisions in section 13 of the Basic Provisions that limit the amount of a replant payment to the actual cost of replanting, the amount of any replanting payment will be determined in accordance with these Crop Provisions;

(2) Except as specified in section 10(a)(1), you must comply with all requirements regarding replanting payments contained in section 13 of the Basic Provisions;

(3) The insured crop must be damaged by an insurable cause of loss to the extent that the remaining stand will not produce at least 90 percent of the production guarantee for the acreage; and

(4) The replanted crop must be planted at a rate sufficient to achieve a total (undamaged and new seeding) plant population that will produce at least the yield used to determine your production guarantee.

(b) The maximum amount of the replanting payment per acre will be the lesser of 20 percent of the production guarantee or 175 pounds, multiplied by your projected price, multiplied by your share.

(c) When the crop is replanted using a practice that is uninsurable for an original planting, the liability on the unit will be reduced by the amount of the replanting payment. The premium amount will not be reduced.

(d) If the acreage is replanted to a crop type that is different than the insured crop type originally planted on the acreage:

(1) The production guarantee, premium, and projected price and harvest price will be adjusted based on the replanted type;

(2) Replanting payments will be calculated using your projected price and production guarantee for the crop type that is replanted and insured; and

(3) A revised acreage report will be required to reflect the replanted type, as applicable.

F. Revise section 11 of § 457.161 to read as follows:

11. Duties in the Event of Damage or Loss.

Representative samples are required in accordance with section 14 of the Basic Provisions.

G. Amend section 12 of § 457.161 as follows:

a. Revise paragraphs (a) and (b);

b. Revise paragraph (d)(4); and

c. Remove all of paragraph (e) except for the first sentence.

The revised text reads as follows:

12. Settlement of Claim.

(a) We will determine your loss on a unit basis. In the event you are unable to provide records of production that are acceptable to us for any:

(1) Optional unit, we will combine all optional units for which acceptable records of production were not provided; or

(2) Basic unit, we will allocate any commingled production to such units in proportion to our liability on the harvested acreage for each unit.

(b) In the event of loss or damage covered by this policy, we will settle your claim by:

(1) Multiplying the number of insured acres of each type, as applicable, by your respective:

(i) Production guarantee (per acre) and your applicable projected price if you elected yield protection; or

(ii) Revenue protection guarantee (per acre) if you elected revenue protection;

(2) Totaling the results of section 12(b)(1)(i) or 12(b)(1)(ii), whichever is applicable;

(3) Multiplying the production to count of each type, as applicable, by your respective:

(i) Projected price if you elected yield protection; or

(ii) Harvest price if you elected revenue protection;

(4) Totaling the results of section 12(b)(3)(i) or 12(b)(3)(ii), whichever is applicable;

(5) Subtracting the result of section 12(b)(4) from the result of section 12(b)(2); and

(6) Multiplying the result of section 12(b)(5) by your share.

For example:

You have 100 percent share in 50 acres of canola in the unit with a production guarantee (per acre) of 650 pounds, the projected price is $.1220, the harvest price is $.1110, and your production to count is 31,000 pounds.

If you elected yield protection:

(1) 50 acres × 650 pound production guarantee × $.1220 projected price = $3,965.00 value of the production guarantee

(3) 31,000 pound production to count × $.1220 projected price = $3,782.00 value of the production to count

(5) $3,965.00 − $3,782.00 = $183.00

(6) $183.00 × 1.000 share = $183.00 indemnity; or

If you elected revenue protection:

(1) 50 acres × (650 pound production guarantee × $.1220 projected price) = $3,965.00 revenue protection guarantee

(3) 31,000 pound production to count × $.1110 harvest price = $3,441.00 value of the production to count

(5) $3,965.00 − $3,441.00 = $524.00

(6) $524.00 × 1.000 share = $524.00 indemnity.

* * * * *

(d) * * *

(4) Canola production that is eligible for quality adjustment, as specified in sections 12(d)(2) and (3), will be reduced in accordance with the quality adjustment factors contained in the Special Provisions.

* * * * *

H. Amend section 14 of § 457.161 by removing the phrase "limited or".

Signed in Washington, DC, on June 28, 2006.

James Callan,

Acting Manager, Federal Crop Insurance Corporation.

[FR Doc. 06–5962 Filed 7–13–06; 8:45 am]

BILLING CODE 3410–08–C

Federal Register

Friday,
July 14, 2006

Part III

Environmental Protection Agency

40 CFR Parts 260, 261 et al.
Hazardous Waste and Used Oil; Corrections to Errors in the Code of Federal Regulations; Final Rule

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 260, 261, 262, 264, 265, 266, 267, 268, 270, 271, 273 and 279

[FRL–8188–2]

Hazardous Waste and Used Oil; Corrections to Errors in the Code of Federal Regulations

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) is correcting errors in the hazardous waste and used oil regulations, as a result of printing omissions, typographical errors, misspellings, citations to paragraphs and other references that have been deleted or moved to new locations without correcting the citations, and similar mistakes appearing in numerous final rules published in the **Federal Register**. This final rule does not create new regulatory requirements.

DATES: *Effective Date:* This final rule is effective on July 14, 2006.

FOR FURTHER INFORMATION CONTACT: Kathleen Rafferty, USEPA Headquarters, Ariel Rios Building, 1200 Pennsylvania Avenue, NW., Mailcode 5303P, Washington, DC 20460; phone number: (703) 308–0589; e-mail: *rafferty.kathy@epa.gov*.

SUPPLEMENTARY INFORMATION:

I. Does This Rule Create New Federal Requirements?

This rule does not create new regulatory requirements; rather, the rule corrects typographical errors, misspellings, punctuation mistakes, missing words, nomenclature errors, incorrect citations, and similar technical mistakes made in numerous final rules published in the **Federal Register**, and corrects printing omissions and other printing errors in the **Federal Register** and Code of Federal Regulations, in order to improve the clarity of the regulations. The application, implementation, and enforcement of the regulations addressed in this rule are not changed in any way.

II. Why Is This Correction Issued as a Final Rule?

Section 553 of the Administrative Procedures Act (APA), 5 U.S.C. 553(b), requires agencies to provide prior notice and opportunity for public comment before issuing a final rule. However, an agency may issue a rule without providing notice and an opportunity for public comment if it finds that notice and public comment procedures are impracticable, unnecessary, or contrary to the public interest (*see* 5 U.S.C. 553(b)(3)(B)). EPA has determined that there is good cause for making this action final without prior proposal and opportunity for public comment because these corrections to the Code of Federal Regulations do not change the regulatory requirements for the hazardous waste management program, and therefore comment is unnecessary. This action corrects typographical and printing errors, incorrect citations resulting primarily from a failure to identify and make conforming changes to internal references when obsolete requirements are removed and subsequent paragraphs are redesignated, and similar mistakes. For these reasons, EPA believes that there is good cause under 5 U.S.C. 553(b)(3) for issuing these corrections as a final rule, and that it is in the public interest to make the corrections to the CFR immediately effective, without going through notice and comment procedures.

III. What Does This Rule Do and Why Are the Corrections Necessary?

This rule corrects approximately 500 errors in the 40 CFR hazardous waste and used oil regulations. As discussed in Section I. above, these errors resulted from such mistakes as typographical and printing errors, and incorrect citations often resulting from EPA's failure to make conforming changes to internal references when, for example, removing obsolete requirements and making associated redesignations of paragraphs; this action also replaces references to DOT regulations that have been superceded (and are thus no longer in the CFR) with the verbatim language of the superceded DOT regulations without changing the implementation and enforcement of the regulations in any way. EPA believes that the errors cause confusion and that the corrections will facilitate understanding of the hazardous waste and used oil regulations.

In developing this rule, EPA accumulated a lengthy list of suggested "technical" corrections, including a number from EPA regions and the States who implement these regulations. Today's action represents approximately 85 percent of the suggested technical corrections received. EPA will continue to examine the remaining 15 percent for a subsequent technical corrections rule.

The 40 CFR sections where corrections are being made are listed below, organized by part. For a number of these, where the correction is not so obvious (e.g., is not a simple misspelling), a description of the change and an explanation are provided. As can be seen by these descriptions, none of the corrections in today's notice changes the original substance or meaning of these sections.

A. Corrections to 40 CFR Part 260 (Hazardous Waste Management System: General)

1. EPA is amending the following sections in 40 CFR part 260 in order to correct typographical errors and incorrect citations: Section 260.10 definitions of "Designated facility," "Incompatible waste," "Personnel or facility personnel," "Universal waste," and "Used oil;" and §§ 260.22, 260.40, and 260.41.

2. *40 CFR 260.40 and 260.41:* EPA is making a conforming change to § 260.40(a) and to the introductory language in § 260.41 by revising the reference "§ 261.6(a)(2)(iv)" to read "§ 261.6(a)(2)(iii)." When §§ 260.40 and 260.41 were first added (50 FR 662 and 663, January 4, 1985), § 260.6 was revised (50 FR 665, January 4, 1985) such that paragraph (a)(2)(iii) was reserved for used oil, paragraph (a)(2)(iv) referred to precious metals, and paragraph (a)(2)(v) referred to spent lead-acid batteries. Subsequently, in the used oil regulations (57 FR 41612, September 10, 1992), § 261.6(a)(2) paragraph (iii) was deleted, and paragraphs (iv) and (v) were redesignated as paragraphs (iii) and (iv), but the conforming changes were not made to §§ 260.40 and 260.41, by redesignating § 261.6(a)(2)(iv) to § 261.6(a)(2)(iii), to keep the reference to precious metals. Today's rule makes this conforming correction. EPA also notes that the reference in § 260.41 to subpart F of part 266 correctly addresses precious metals recovery (it is subpart G of part 266 that addresses spent lead-acid batteries reclamation).

B. Corrections to Part 261 (Identification and Listing of Hazardous Waste)

1. EPA is amending the following sections of 40 CFR part 261 in order to correct typographical and spelling errors, incorrect citations, and printing errors: Sections 261.2, 261.3, 261.4, 261.6, 261.21, 261.24, 261.31, 261.32, 261.33, 261.38, Appendix VII (F002, F038, F039, K001, and K073 entries), and Appendix VIII.

2. *40 CFR 261.21(a)(3) and 261.21(a)(4):* When EPA first promulgated the ignitability characteristic for hazardous waste identification, the Agency incorporated, by reference, U.S. Department of Transportation (DOT) regulations (contained in Title 49 of the CFR) that defined an ignitable compressed gas and

an oxidizer. In 1990, DOT revised and recodified its regulations governing transportation of hazardous materials, including the sections of 49 CFR referenced by 40 CFR 261.21.[1] The referenced DOT regulations were both revised and moved within 49 CFR; as a result, the hazardous characteristic definitions at 40 CFR 261.21(a)(3) and 261.21(a)(4) now refer to nonexistent or irrelevant sections of the DOT regulations.

Since these original DOT regulations are still required under RCRA, EPA is replacing the obsolete references to the DOT regulations contained in the definitions for an ignitable compressed gas and an oxidizer, 40 CFR 261.21(a)(3) and 261.21(a)(4), respectively, with the actual language from the referenced sections of the DOT regulations that was published in Title 49 of the CFR at the time of the finalization of the RCRA regulations (1980). Because it can be difficult to obtain copies of the CFR from 1980, this revision will make it easier for the regulated community to find and apply the definitions of ignitable compressed gas and oxidizer for the purposes of 261.21. The implementation and enforcement of the ignitability characteristic will not change in any way. The Agency is simply publishing the original definitions to ease the burden on the regulated community.

3. *40 CFR 261.31(a):* This section was amended June 29, 1995 (60 CFR 33913), by removing footnote 1 from the table (referring to a temporary stay of the effective date of regulations listing certain wood preserving wastes as hazardous wastes). The Office of **Federal Register**, by mistake, also removed the footnote designated by an asterisk (*) which said "*(I,T) should be used to specify mixtures containing ignitable and toxic constituents." Today's notice restores and clarifies the footnote to read "*(I,T) should be used to specify mixtures that are ignitable and contain toxic constituents."

4. *40 CFR 261.33(e) and 261.33(f):* The Tables in §§ 261.33(e) and 261.33(f) describe P-listed waste and U-listed waste, respectively. The wastes listed in these Tables are currently organized alphabetically, by substance. In order to simplify the use of the Tables in §§ 231.33(e) and 261.33(f), this rule adds a list of the same wastes organized numerically, by Hazardous Waste Number, to the end of each Table. The Table in § 261.33(e) will now have an alphabetical list of P-listed wastes followed by a numerical list of P-listed wastes, and the Table in § 261.33(f) will now have an alphabetical list of U-listed wastes followed by a numerical list of U-listed wastes. The wastes listed in these Tables are not being changed, except to correct typographical errors. This revision is included to make the Tables in §§ 261.33(e) and 261.33 (f) easier to use and does not substantively change the regulations governing P-listed or U-listed wastes.

C. Corrections to Part 262 (Standards Applicable to Generators of Hazardous Waste)

1. EPA is amending the following sections in 40 CFR part 262 in order to correct typographical errors and incorrect citations, and to update EPA addresses and the list of OECD countries: Sections 262.34, 262.53, 262.56, 262.58, 262.70, 262.81, 262.82, 262.83, 262.84, 262.87, 262.90, and the introductory paragraph to the part 262 Appendix.

2. *40 CFR 262.53(b), 262.56(b), 262.83(b)(1)(i), 262.83(b)(2)(i), 262.84(e), and 262.87(a):* These sections are all being amended by updating the mailing and hand delivery addresses for delivery of the various export notifications, reports and tracking documents to EPA.

3. *40 CFR 262.58(a)(1):* This section is being amended to update the list of designated OECD Member countries by adding the Czech Republic, Hungary, Poland, the Slovak Republic, and South Korea to accurately reflect the current membership.

4. *40 CFR 262.81(k):* This section is being amended by updating the address for the EPA RCRA Docket.

D. Corrections to Part 264 (Standards for Owners and Operators of Hazardous Waste Treatment, Storage, and Disposal Facilities

1. EPA is amending the following sections of 40 CFR part 264 in order to correct typographical and spelling errors, incorrect citations, and printing errors: Sections 264.1, 264.4, 264.13, 264.17, 264.18, 264.97, 264.98, 264.99, 264.101, 264.111, 264.112, 264.115, 264.116, 264.118, 264.119, 264.140, 264.142, 264.143, 264.145, 264.147, 264.151, 264.175, 264.193, 264.221, 264.223, 264.226, 264.251, 264.252, 264.259, 264.280, 264.283, 264.301, 264.302, 264.304, 264.314, 264.317, 264.344, 264.552, 264.553, 264.554, 264.555, 264.573, 264.600, 264.601, 264.1030, 264.1033, 264.1034, 264.1035, 264.1050, 264.1058, 264.1064, 264.1080, 264.1090, 264.1101, 264.1102, and Tables 1 and 2 of Appendix I.

2. *40 CFR 264.112(b)(8) and 264.140(d)(1):* On October 22, 1998 (63 FR 56710), EPA issued a final rule establishing new requirements related to closure and post-closure care at land disposal facilities. Today's rule corrects two typographical errors that appeared in the October 22, 1998 final rule. Sections 264.112(b)(8) and 264.140(d)(1)of that rule referred to § 264.110(d), when they should have referred to § 264.110(c). This error is evidenced by the fact that § 264.110(d) does not exist. In addition, the preamble of the final rule correctly refers to § 264.110(c) in the text under Table 1 (63 FR 56714). Finally, the corresponding provision in §§ 265.112(b)(8) and 265.140(d)(1) correctly refers to § 265.110(d), which is analogous to § 264.110(c). Thus, this final rule corrects the typographical errors in §§ 264.112(b)(8) and 264.140(d)(1) by changing the incorrect reference "§ 264.110(d)" to read "§ 264.110(c)."

3. *40 CFR 264.221(e)(2)(i)(B), 264.301(e)(2)(i)(B), 264.314(f)(2), 265.221(d)(2)(i)(B), 265.301(d)(2)(i)(B), and 265.314(g)(2):* These sections in 40 CFR parts 264 and 265 all refer to "underground source of drinking water (as that term is defined in § 144.3 of this chapter)." Today's correction replaces the citation "§ 144.3 of this chapter" in each of these sections with "40 CFR 270.2" since both citations contain identical definitions for "underground source of drinking water," but the former is in the Underground Injection Control Program rules and the latter is in the Hazardous Waste Permit Program rules which the user is more likely to have readily available since parts 264 and 265 are the associated Hazardous Waste Facility rules. Today's correction also adds quotes around "underground source of drinking water" to make it clear that this is the term that is defined.

4. *40 CFR 264.573 and 265.443:* Sections 264.572 and 265.442 each provide two options for drip pads: Synthetic liners, in paragraph (a) of both sections; and other low permeability material, in paragraph (b) of both sections. But the design and operating requirements for synthetic liners in paragraphs 264.573(b) and 265.443(b), incorrectly refer to paragraphs 264.572(b) and 265.442(b), respectively; and the design and operating requirements for other low permeability material in paragraphs 264.573(a)(4)(i) and 265.443(a)(4)(i) incorrectly refer to §§ 264.572(a) and 265.442(a), respectively. This mistake was in the original **Federal Register** notice (57 FR 61503, December 24, 1992). Today's action corrects these four references by changing (a) to (b) and (b) to (a) as indicated.

[1] 55 FR 52402.

5. *40 CFR 264.1090(c):* EPA is amending this paragraph to correct a typographical error and to remove a duplicate sentence; no other changes are being made.

6. *40 CFR 264.1101(b)(3)(iii) and 265.1101(b)(3)(iii):* These paragraphs refer to §§ 264.193(d)(1) and 265.193(d)(1), respectively, for the requirements for external liner systems for tanks, but these referenced paragraphs merely provide that a liner external to a tank is an option for meeting secondary containment. The actual requirements for external liner systems for tanks are found in §§ 264.193(e)(1) and 265.193(e)(1), respectively. This mistake was in the original **Federal Register** notice (57 FR 37266, August 18, 1992). Today's action provides the correct paragraphs for the requirements.

7. *Table 1 of Appendix I to 40 CFR Part 264:* EPA is amending Table 1 in order to add the unit of measure codes for "Pounds," "Short tons," "Kilograms," and "Tons."

E. Corrections to Part 265 (Interim Status Standards for Owners and Operators of Hazardous Waste Treatment, Storage, and Disposal Facilities

1. EPA is amending the following sections of 40 CFR part 265 in order to correct typographical and spelling errors, incorrect citations, and printing errors: Sections 265.1, 265.12, 265.14, 265.16, 265.19, 265.56, 265.90, 265.110, 265.111, 265.112, 265.113, 265.117, 265.119, 265.140, 265.142, 265.145, 265.147, 265.174, 265.193, 265.194, 265.197, 265.201, 265.221, 265.223, 265.224, 265.228, 265.229, 265.255, 265.259, 265.280, 265.281, 265.301, 265.302, 265.303, 265.312, 265.314, 265.316, 265.405, 265.441, 265.443, 265.445, 265.1033, 265.1035, 265.1063, 265.1080, 265.1085, 265.1087, 265.1090, 265.1100, 265.1101, Tables 1 and 2 of Appendix I, Appendix V, and Appendix VI.

2. *40 CFR 265.147(b)(1)(i) and (ii):* Because of a printing error, 40 CFR 265.147(a)(1)(i) and (ii), and 265.147(b)(1)(i) and (ii) were omitted from the July 1, 1989, 1990 and 1991 CFRs, although they were included in earlier editions of the **Federal Register** and CFRs. A September 23, 1991 (56 FR 47912) correction to the CFR published in the **Federal Register** corrected the omission of § 265.147(a)(1)(i) and (ii) from those CFRs, but did not mention the omission of § 265.147(b)(1)(i) and (ii) from the CFR. This correction is being made to be sure the subparagraphs in 265.147(b)(1) are in the next edition of the CFR.

3. *40 CFR 265.174:* The Burden Reduction Rule (71 FR 16910, April 4, 2006) inadvertently lifted the phrase "and the containment system" from § 264.174 and inserted it into § 265.174. The intent of the Burden Reduction Rule in revising §§ 264.174 and 265.174 was to provide a procedure for Performance Track member facilities to revise their required inspection frequency for container/container areas. At the same time, the Burden Reduction Rule sought to make conforming changes to these sections. Before the Burden Reduction Rule, these two sections, except for the phrase "and the containment system," were identical in meaning (although they used different language).

Section 264.175 contains requirements and specifications for a containment system for the Part 264 container storage areas. There are no requirements for a containment system for Part 265 container storage areas (§ 265.175 does not exist; it is reserved). To simplify, clarify, and avoid confusion, the Burden Reduction Rule attempted to conform these two sections by using the same language in new § 265.174 as in new § 264.174 for the comparable parts; but in the process, the erroneous reference "and the containment system" was retained. Today's notice corrects this error.

4. *40 CFR 265.221:* The April 4, 2006 final rule (71 FR 16911) amended 40 CFR 265.221 (a). In the process, the words "above and" were inadvertently added, such that the paragraph was amended to read, "The owner or operator of each new surface impoundment unit* * * *must install two or more liners, and a leachate collection and removal system above and between the liners* * * * *." Table 8 in the preamble (71 FR 16876, April 4, 2006) incorrectly indicated that the existing language in § 265.22 (a) included the words "above and," and the Table indicated that no change was being made here. In actuality, the words "above and" were not in the existing language and EPA indeed had no intent to change this part of the paragraph. As a practical matter, it is impossible to have a "leachate" collection and removal system above a liner in a surface impoundment since the liquid waste itself is there, not leachate.

5. *40 CFR 265.229:* The January 29, 1992 final rule (57 FR 3462) amended 40 CFR 265.228 by redesignating paragraphs (b)(2) and (b)(3) as paragraphs (b)(3) and (b)(4) respectively, and by adding a new paragraph (b)(2). However, instructions for amending § 265.228 were erroneously also applied to § 265.229 (which was not amended by the January 29, 1992 rule), thus resulting in the redesignation of § 265.229(b)(2) and (b)(3) as § 265.229(b)(3) and (b)(4) and the addition of a new § 265.229(b)(2), repeating the paragraph added at § 265.228(b)(2). This error is being corrected by removing 40 CFR 265.229(b)(2), redesignating 40 CFR 265.229(b)(3) and (b)(4) as 40 CFR 265.229(b)(2) and (b)(3), and removing the reference to "57 FR 3493, Jan. 29, 1992" from the **Federal Register** listing at the end of 40 CFR 265.229.

6. *40 CFR 265.1100(d):* Section 265.1100 lists a number of criteria that enable a containment building to not be classified as land disposal under RCRA 3004(k), i.e., that prevent or control releases to the environment. The operable verbs used in this list are: "to prevent" (paragraph (a)), "to withstand" (paragraph (b)), "to prevent" (paragraph (c)(1)), "to minimize" (paragraph (c)(2)), "to prevent" (paragraph (c)(3)), and "to ensure containment and prevent" (paragraph (e)). Yet in paragraph (d), EPA, by mistake, used the word "permit" instead of "prevent," in saying: "Has controls as needed to permit fugitive dust emissions." As further evidence EPA meant "prevent," the comparable paragraph in § 264.1100(d) says: "Has controls sufficient to prevent fugitive dust emissions* * * *." Further, the accompanying design and operating standards in § 265.1101(a)(2)(i) and (c)(1)(iv) require that all containment buildings "provide an effective barrier against fugitive dust emissions," and "control fugitive dust emissions" with "no visible emissions." This mistake was in the original **Federal Register** notice (57 FR 37268, August 18, 1992). Today's action corrects this mistake by changing "permit" to "prevent" in § 265.1100, paragraph (d).

7. *Table 1 of Appendix I to 40 CFR Part 265:* EPA is amending Table 1 in order to add the unit of measure codes for "Pounds," "Short tons," "Kilograms," and "Tons."

F. Corrections to Part 266 (Standards for the Management of Specific Hazardous Wastes and Specific Types of Hazardous Waste Management Facilities)

1. EPA is amending the following sections of 40 CFR part 266 in order to correct typographical and spelling errors, incorrect citations, and printing errors: Sections 266.70, 266.80, 266.100, 266.102, 266.103, 266.106, 266.109, Title of Subpart N, and Appendices III, IV, V, VI, VIII, IX and XIII.

2. *40 CFR 266.103(c)(1)(i) and (ix):* These provisions were initially

introduced into the Code of Federal Regulations by a final rule published on February 21, 1991 (56 FR 7134), with an amendment to § 266.103(c)(1)(ix) published on July 17, 1991 (56 FR 32688). An August 27, 1991 final rule (56 FR 42504) amended paragraphs (c)(1) and (c)(3)(i), but a printing error by the Office of the Federal Register resulted in the removal of 40 CFR 266.103(c)(1)(i) through (xiii) and 40 CFR 266.103(c)(3)(ii) and (iii) from the 1992 edition of 40 CFR. A September 30, 1992 final rule (57 FR 44999) reinstated these paragraphs and clarified that they were regarded by EPA to have been in effect continuously in the form published in the 1991 CFR and as subsequently amended by an August 25, 1992 final rule (57 FR 38558). However, in reinstating these paragraphs, errors were introduced in the text at § 266.103(c)(1)(i) and (ix). Today's notice is correcting the errors by reinstating the language at § 266.103(c)(1)(i), as introduced by the February 21, 1991 (56 FR 7134) final rule, and the language at § 266.103(c)(1)(ix), as introduced by the February 21, 1991 final rule (56 FR 7134) and amended by the July 17, 1991 final rule (56 FR 32688).

3. *40 CFR 266.106(d)(1):* The August 25, 1992 final rule (57 *FR* 38558), which amended 40 CFR 266.106(d)(1), introduced an error into the Federal code by including the duplicate phrase "dispersion modeling to predict the maximum annual average off-site ground level concentration for each." Today's action corrects the error by removing the duplicate phrase.

G. Corrections to Part 267 (Standards for Owners and Operators of Hazardous Waste Facilities Operating Under a Standardized Permit)

1. EPA is amending 40 CFR part 267 in order to correct the nomenclature in § 267.147.

H. Corrections to Part 268 (Land Disposal Restrictions)

1. EPA is amending the following sections of 40 CFR part 268 in order to correct typographical and spelling errors, incorrect citations, and printing errors: Sections 268.2, 268.4, 268.6, 268.7, 268.14, 268.40, 268.42, 268.44, 268.45, 268.48 Table, 268.49, 268.50, and Appendix VIII.

2. *40 CFR 268.7(b)(4)(ii), (d), (d)(2), and (d)(3):* All these paragraphs incorrectly cite § 261.3(e), which is now "reserved," for debris excluded from the definition of hazardous waste. The exclusion for debris is located in § 261.3(f). This error can be traced to a January 9, 1992 **Federal Register** (57 FR 1013) where it was proposed to place this requirement in § 261.3(e), but in the August 18, 1992 **Federal Register** (57 FR 37264) it was placed in § 261.3(f). It was also the August 18, 1992 final rule that erroneously added six references to § 261.3(e) instead of § 261.3(f). Today's action corrects these citations.

3. *40 CFR 268.7(d)(1) and (d)(1)(i) through (iii):* The August 18, 1992 final rule (57 FR 37194) added 40 CFR 268.7(d)(1) and (d)(1)(i) through (iii) to the Federal code. On January 3, 1995 (60 *FR* 244–245), EPA amended § 268.7(d), introductory text, and (d)(1), but in doing so, erroneously added the duplicate phrase "or State authorized to implement part 268 requirements" in paragraph (d)(1). In addition, the Office of the Federal Register, by mistake, removed paragraphs (d)(1)(i) through (iii). This notice corrects these errors by removing the duplicate phrase at 40 CFR 268.7(d)(1) and reinstating paragraphs (d)(1)(i) through (iii) of 40 CFR 268.7.

I. Corrections to Part 270 (EPA Administered Permit Programs: The Hazardous Waste Permit Program)

EPA is amending the following sections of 40 CFR part 270 in order to correct typographical and spelling errors, and incorrect citations: Sections 270.1, 270.2, 270.10, 270.11, 270.13, 270.14, 270.17, 270.18, 270.20, 270.25, 270.26, 270.33, 270.41, 270.42, 270.42 Appendix I, 270.51, 270.70 and 270.72.

J. Corrections to Part 271 (Requirements for Authorization of State Hazardous Waste Program)

1. EPA is correcting typographical and spelling errors in the following sections of 40 CFR part 271: Sections 271.1, 271.21, and 271.23.

2. *40 CFR 271.21(g)(1)(i):* Today's action restores language that the CFR mistakenly changed between the 1996 and 1997 CFRs, by revising "The State has received an extension of the program modification deadline * * * and has made dils to revise its program * * *" to read "The State has received an extension of the program modification deadline * * * and has made diligent efforts to revise its program * * *."

K. Corrections to Part 273 (Standards for Universal Waste Management)

EPA is amending the following sections of 40 CFR part 273 in order to correct typographical and spelling errors: Sections 273.9, 273.13, 273.14, 273.34 and 273.61.

L. Corrections to Part 279 (Standards for the Management of Used Oil)

EPA is amending the following sections of 40 CFR part 279 in order to correct typographical and spelling errors, and incorrect citations: §§ 279.1, 279.10, 279.11, 279.43, 279.44, 279.45, 279.52, 279.55, 279.56, 279.57, 279.59, 279.63, 279.64, and 279.70.

IV. Statutory and Executive Order Reviews

This final rule corrects errors introduced into the CFR by numerous previous rules and does not create any new regulatory requirements. Therefore, this rule complies with applicable executive orders and statutory provisions as follows.

1. *Executive Order 12866: Regulatory Planning Review*—Because this rule corrects errors in the CFR and does not create any new regulatory requirements, EPA has determined that this rule is not a "significant regulatory action" under the terms of Executive Order 12866 (58 FR 51735, October 4, 1993) and is therefore not subject to review by the Office of Management and Budget (OMB).

2. *Paperwork Reduction Act*—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.*).

3. *Regulatory Flexibility Act*—This rule corrects errors in the CFR and does not impose new burdens on small entities. Accordingly, I certify that this action 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.*).

4. *Unfunded Mandates Reform Act*—Because this rule only corrects errors in the CFR, 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).

5. *Executive Order 13132: Federalism*—Executive Order 13132 (64 FR 43255, August 10, 1999) does not apply to this rule because it will not have federalism implications (i.e., substantial direct effects on the States, on the relationship between the Federal government and the States, or on the distribution of power and responsibilities among the various levels of government).

6. *Executive Order 13175: Consultation and Coordination with Indian Tribal Governments*—Executive Order 13175 (65 FR 67249, November 6, 2000) does not apply to this rule because it will not have tribal

implications (i.e., substantial direct effects on one or more Indian tribes, or 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).

7. *Executive Order 13045: Protection of Children from Environmental Health and Safety Risks*—This rule is not subject to Executive Order 13045 (62 FR 19885, April 23, 1997), because it is not economically significant and it is not based on environmental health or safety risks.

8. *Executive Order 13211: Actions that Significantly Affect Energy Supply, Distribution, or Use*—This rule is not subject to Executive Order 13211 (66 FR 28355, May 22, 2001) because it is not a significant regulatory action under Executive Order 12866.

9. *National Technology Transfer Advancement Act*—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 because this rule only corrects errors in the CFR and does not involve technical standards.

10. *Executive Order 12988*—As required by section 3 of Executive Order 12988 (61 FR 4729, February 7, 1996), EPA has taken the necessary steps in this action to eliminate drafting errors and ambiguity, minimize potential litigation, and provide a clear legal standard for affected conduct.

11. *Congressional Review Act*—EPA will submit a report containing this rule and other information required by the Congressional Review Act (5 U.S.C. 801 *et seq.*, as amended) to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication 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). This action is effective July 14, 2006.

List of Subjects

40 CFR Part 260

Environmental protection, Administrative practice and procedure, Confidential business information, Hazardous waste, Reporting and recordkeeping requirements.

40 CFR Part 261

Environmental protection, Hazardous waste, Recycling, Reporting and recordkeeping requirements.

40 CFR Part 262

Environmental protection, Exports, Hazardous materials transportation, Hazardous waste, Imports, Labeling, Packaging and containers, Reporting and recordkeeping requirements.

40 CFR Parts 264 and 265

Environmental protection, Air pollution control, Hazardous waste, Insurance, Packaging and containers, Reporting and recordkeeping requirements, Security measures, Surety bonds.

40 CFR Part 266

Hazardous waste, Recyclable materials, Boilers and industrial furnaces, Low-level mixed waste.

40 CFR Part 267

Standardized permits, Financial test.

40 CFR Part 268

Environmental protection, Hazardous materials, Reporting and recordkeeping requirements.

40 CFR Part 270

Environmental protection, Administrative practice and procedure, Confidential business information, Hazardous materials transportation, Hazardous waste, Reporting and recordkeeping requirements, Water pollution control, Water supply.

40 CFR Part 271

Environmental protection, Administrative practice and procedure, Confidential business information, Hazardous materials transportation, Hazardous waste, Indian lands, Intergovernmental relations, Penalties, Reporting and recordkeeping requirements, Water pollution control, Water supply.

40 CFR Part 273

Environmental protection, Hazardous materials transportation, Hazardous waste.

40 CFR Part 279

Environmental protection, Petroleum, Recycling, Reporting and recordkeeping requirements.

Dated: June 16, 2006.

Susan Parker Bodine,

Assistant Administrator for Office of Solid Waste and Emergency Response.

■ For the reasons set out in the preamble, 40 CFR Parts 260, 261, 262, 264, 265, 266, 267 268, 270, 271, 273, and 279 are amended as follows:

PART 260—HAZARDOUS WASTE MANAGEMENT SYSTEM: GENERAL

■ 1. The authority citation for part 260 continues to read as follows:

Authority: 42 U.S.C. 6905, 6912(a), 6921–6927, 6930, 6934, 6935, 6937, 6938, 6939, and 6974.

§ 260.10 [Amended]

■ 2. Amend § 260.10 as follows:
■ a. In the definition of "*Incompatible waste,*" revise the parenthetical phrase "(See part 265, appendix V, of this chapter for examples.)" to read "(See appendix V of parts 264 and 265 of this chapter for examples.)";
■ b. In the definition of "*Personnel or facility personnel,*" remove the comma after the word "work";
■ c. In the definition of "*Universal waste,*" remove the section symbol "§" in front of "273";
■ d. In the definition of "*Used oil,*" revise "in contaminated" to read "is contaminated".

§ 260.22 [Amended]

■ 3. Amend § 260.22 as follows:
■ a. In paragraph (a)(1), revise "actutely" to read "acutely";
■ b. In paragraph (d)(1)(ii), revise "hazrdous" to read "hazardous".

§ 260.40 [Amended]

■ 4. In § 260.40, amend paragraph (a) by revising the citation "§ 261.6(a)(2)(iv)" to read "§ 261.6(a)(2)(iii)".

§ 260.41 [Amended]

■ 5. Amend the § 260.41 introductory text by revising the citation "§ 261.6(a)(2)(iv)" to read "§ 261.6(a)(2)(iii)".

PART 261—IDENTIFICATION AND LISTING OF HAZARDOUS WASTE

■ 6. The authority citation for Part 261 continues to read as follows:

Authority: 42 U.S.C. 6905, 6912(a), 6921, 6922, 6924(y), and 6938.

§ 261.2 [Amended]

■ 7. Amend § 261.2 (c)(1)(i) by revising the reference to "Table I" to read "Table 1"(*i.e.,* revise the letter "I" to be the number "1").

§ 261.3 [Amended]

■ 8. Amend § 261.3(a)(2)(i) by revising the reference to "table I" to read "Table 1" (*i.e.,* revise the letter "I" to be the number "1").

§ 261.4 [Amended]

■ 9. Amend § 261.4 as follows: a. In paragraph (a)(20)(v), revise "inparagraph" by inserting a space to read "in paragraph";
■ b. In paragraph (b)(6)(i)(B), revise "exlcusively" to read "exclusively";
■ c. In paragraph (b)(6)(ii) introductory text, revise "Specific waste" to read "Specific wastes";

■ d. In paragraph (b)(6)(ii)(D), revise "crome" to read "chrome";
■ e. In paragraph (b)(6)(ii)(F), revise "sludes" to read "sludges", and revise the word "chrometan" to read "chrome tan";
■ f. In paragraph (b)(9), revise "and wood product" to read "and wood products";
■ g. In paragraph (e)(2)(vi), revise the citation "(e)(v)(C)" to read "(e)(2)(v)(C)";
■ h. In paragraph (e)(3)(i) first sentence, revise "treatabilty" to read "treatability".

§ 261.6 [Amended]

■ 10. Amend § 261.6 as follows:
■ a. In paragraph (a)(2)(i), remove the parenthetical phrase "(subpart C)" and add "(40 CFR part 266, subpart C)" in its place;
■ b. In paragraph (a)(2)(ii), remove the parenthetical phrase "(subpart H)" and add "(40 CFR part 266, subpart H)" in its place;
■ c. In paragraph (a)(2)(iii), remove the parenthetical phrase "(subpart F)" and add "(40 CFR part 266, subpart F)" in its place;
■ d. In paragraph (a)(2)(iv), remove the parenthetical phrase "(subpart G)" and add "(40 CFR part 266, subpart G)" in its palce;
■ e. In paragraph (a)(2)(v), remove the parenthetical phrase "(subpart O)" and add "(40 CFR part 266, subpart O)" in its place;
■ f. In paragraph (c)(2), revise the word "rcycled" to read "recycled".

§ 261.21 [Amended]

■ 11. In § 261.21, revise paragraphs (a)(3) and (a)(4) and add notes 1 through 4 to the end of the section to read as follows:

§ 261.21 Characteristic of ignitability.

(a) * * *

(3) It is an ignitable compressed gas.

(i) The term "compressed gas" shall designate any material or mixture having in the container an absolute pressure exceeding 40 p.s.i. at 70 °F or, regardless of the pressure at 70 °F, having an absolute pressure exceeding 104 p.s.i. at 130 °F; or any liquid flammable material having a vapor pressure exceeding 40 p.s.i. absolute at 100 °F as determined by ASTM Test D–323.

(ii) A compressed gas shall be characterized as ignitable if any one of the following occurs:

(A) Either a mixture of 13 percent or less (by volume) with air forms a flammable mixture or the flammable range with air is wider than 12 percent regardless of the lower limit. These limits shall be determined at atmospheric temperature and pressure. The method of sampling and test procedure shall be acceptable to the Bureau of Explosives and approved by the director, Pipeline and Hazardous Materials Technology, U.S. Department of Transportation (see Note 2).

(B) Using the Bureau of Explosives' Flame Projection Apparatus (see Note 1), the flame projects more than 18 inches beyond the ignition source with valve opened fully, or, the flame flashes back and burns at the valve with any degree of valve opening.

(C) Using the Bureau of Explosives' Open Drum Apparatus (see Note 1), there is any significant propagation of flame away from the ignition source.

(D) Using the Bureau of Explosives' Closed Drum Apparatus (see Note 1), there is any explosion of the vapor-air mixture in the drum.

(4) It is an oxidizer. An oxidizer for the purpose of this subchapter is a substance such as a chlorate, permanganate, inorganic peroxide, or a nitrate, that yields oxygen readily to stimulate the combustion of organic matter (see Note 4).

(i) An organic compound containing the bivalent -O-O- structure and which may be considered a derivative of hydrogen peroxide where one or more of the hydrogen atoms have been replaced by organic radicals must be classed as an organic peroxide unless:

(A) The material meets the definition of a Class A explosive or a Class B explosive, as defined in § 261.23(a)(8), in which case it must be classed as an explosive,

(B) The material is forbidden to be offered for transportation according to 49 CFR 172.101 and 49 CFR 173.21,

(C) It is determined that the predominant hazard of the material containing an organic peroxide is other than that of an organic peroxide, or

(D) According to data on file with the Pipeline and Hazardous Materials Safety Administration in the U.S. Department of Transportation (see Note 3), it has been determined that the material does not present a hazard in transportation.

* * * * *

Note 1: A description of the Bureau of Explosives' Flame Projection Apparatus, Open Drum Apparatus, Closed Drum Apparatus, and method of tests may be procured from the Bureau of Explosives.

Note 2: As part of a U.S. Department of Transportation (DOT) reorganization, the Office of Hazardous Materials Technology (OHMT), which was the office listed in the 1980 publication of 49 CFR 173.300 for the purposes of approving sampling and test procedures for a flammable gas, ceased operations on February 20, 2005. OHMT programs have moved to the Pipeline and Hazardous Materials Safety Administration (PHMSA) in the DOT.

Note 3: As part of a U.S. Department of Transportation (DOT) reorganization, the Research and Special Programs Administration (RSPA), which was the office listed in the 1980 publication of 49 CFR 173.151a for the purposes of determining that a material does not present a hazard in transport, ceased operations on February 20, 2005. RSPA programs have moved to the Pipeline and Hazardous Materials Safety Administration (PHMSA) in the DOT.

Note 4: The DOT regulatory definition of an oxidizer was contained in § 173.151 of 49 CFR, and the definition of an organic peroxide was contained in paragraph 173.151a. An organic peroxide is a type of oxidizer.

§ 261.24 [Amended]

■ 12. In § 261.24, amend paragraph (b) by revising the reference to "Table I" to read "Table 1" (i.e., replace the letter "I" with the number "1").

§ 261.31 [Amended]

■ 13. In § 261.31(a), amend the Table by adding a footnote at the bottom to read as follows: "*(I,T) should be used to specify mixtures that are ignitable and contain toxic constituents.".

§ 261.32 [Amended]

■ 14. In § 261.32, amend the Table entries for "K107" and "K069" as follows:
■ a. In the second column of the row beginning "K107", amend "1,1-dimethyl-hydrazine" by deleting the hyphen to read "1,1-dimethylhydrazine";
■ b. In the second column of the row beginning "K069", add a closing parenthesis after the word "Register".

§ 261.33 [Amended]

■ 15. Amend § 261.33 as follows:
■ a. In paragraph (e), revise the phrase "are subject to be the" to read "are subject to the";
■ b. In paragraph (e), amend the bracketed Comment by adding a sentence at the end, within the brackets, to read as set forth below;
■ c. In the Table in paragraph (e), in the third column of the row beginning "P045", in the substance "2-Butanone, 3,3-dimethyl-l-(methylthio)-,O-[methylamino)carbonyl]oxime", add an opening parenthesis to revise "[methylamino)" to read "[(methylamino)";
■ d. In the Table in paragraph (e), in the third column of the row beginning "P194", in the substance "Ethanimidothioc acid, 2-(dimethylamino)-N-[[(methylamino) carbonyl]oxy]-2-oxo-, methyl ester,"

revise "Ethanimidothioc" to read "Ethanimidothioic";

■ e. In the Table in paragraph (e), in the third column of the second row beginning "P074", revise "Nickel cynaide" to read "Nickel cyanide".

■ f. Add entries to the end of the Table in paragraph (e) to read as set forth below:

■ g. Amend paragraph (f) by revising "manfacturing" to read "manufacturing".

■ h. In paragraph (f), amend the bracketed Comment by adding a sentence to the end, within the brackets, to read as set forth below.

■ i. In the table to paragraph (f), in the entry with "Paraldehyde" in the third column, revise the first column "2" to read "U182";

■ j. In the table of paragrah (f), in the third column of the second row beginning "U216", revise "Thallium chloride Tlcl" to read "thallium chloride TlCl";

■ k. In the table of paragraph (f), add an entry just above the entry for "U227" (in column 1), "79–00–5" (in column 2), and "1,1,2-Trichloroethane" (in column 3) to read as set forth below.

■ l. Add entries to the end of the Table in paragraph (f) as follows:

§ 261.33 Discarded commercial chemical products, off-specification species, container residues, and spill residues thereof.

* * * * *

■ (e) * * *

[*Comment:* * * * Wastes are first listed in alphabetical order by substance and then listed again in numerical order by Hazardous Waste Number.]

* * * * *

NUMERICAL LIST

Hazardous waste No.	Chemical abstracts No.	Substance
P001	[1]81–81–2	2H-1-Benzopyran-2-one, 4-hydroxy-3-(3-oxo-1-phenylbutyl)-, & salts, when present at concentrations greater than 0.3%
P001	[1]81–81–2	Warfarin, & salts, when present at concentrations greater than 0.3%
P002	591–08–2	Acetamide, -(aminothioxomethyl)-
P002	591–08–2	1-Acetyl-2-thiourea
P003	107–02–8	Acrolein
P003	107–02–8	2-Propenal
P004	309–00–2	Aldrin
P004	309–00–2	1,4,5,8-Dimethanonaphthalene, 1,2,3,4,10,10-hexa-chloro-1,4,4a,5,8,8a,-hexahydro-, (1alpha,4alpha,4abeta,5alpha,8alpha,8abeta)-
P005	107–18–6	Allyl alcohol
P005	107–18–6	2-Propen-1-ol
P006	20859–73–8	Aluminum phosphide (R,T)
P007	2763–96–4	5-(Aminomethyl)-3-isoxazolol
P007	2763–96–4	3(2H)-Isoxazolone, 5-(aminomethyl)-
P008	504–24–5	4-Aminopyridine
P008	504–24–5	4-Pyridinamine
P009	131–74–8	Ammonium picrate (R)
P009	131–74–8	Phenol, 2,4,6-trinitro-, ammonium salt (R)
P010	7778–39–4	Arsenic acid H_3 AsO_4
P011	1303–28–2	Arsenic oxide As_2 O_5
P011	1303–28–2	Arsenic pentoxide
P012	1327–53–3	Arsenic oxide As_2 O_3
P012	1327–53–3	Arsenic trioxide
P013	542–62–1	Barium cyanide
P014	108–98–5	Benzenethiol
P014	108–98–5	Thiophenol
P015	7440–41–7	Beryllium powder
P016	542–88–1	Dichloromethyl ether
P016	542–88–1	Methane, oxybis[chloro-
P017	598–31–2	Bromoacetone
P017	598–31–2	2-Propanone, 1-bromo-
P018	357–57–3	Brucine
P018	357–57–3	Strychnidin-10-one, 2,3-dimethoxy-
P020	88–85–7	Dinoseb
P020	88–85–7	Phenol, 2-(1-methylpropyl)-4,6-dinitro-
P021	592–01–8	Calcium cyanide
P021	592–01–8	Calcium cyanide $Ca(CN)_2$
P022	75–15–0	Carbon disulfide
P023	107–20–0	Acetaldehyde, chloro-
P023	107–20–0	Chloroacetaldehyde
P024	106–47–8	Benzenamine, 4-chloro-
P024	106–47–8	p-Chloroaniline
P026	5344–82–1	1-(o-Chlorophenyl)thiourea
P026	5344–82–1	Thiourea, (2-chlorophenyl)-
P027	542–76–7	3-Chloropropionitrile
P027	542–76–7	Propanenitrile, 3-chloro-
P028	100–44–7	Benzene, (chloromethyl)-
P028	100–44–7	Benzyl chloride
P029	544–92–3	Copper cyanide
P029	544–92–3	Copper cyanide Cu(CN)
P030	.....	Cyanides (soluble cyanide salts), not otherwise specified
P031	460–19–5	Cyanogen

NUMERICAL LIST—Continued

Hazardous waste No.	Chemical abstracts No.	Substance
P031	460–19–5	Ethanedinitrile
P033	506–77–4	Cyanogen chloride
P033	506–77–4	Cyanogen chloride (CN)Cl
P034	131–89–5	2-Cyclohexyl-4,6-dinitrophenol
P034	131–89–5	Phenol, 2-cyclohexyl-4,6-dinitro-
P036	696–28–6	Arsonous dichloride, phenyl-
P036	696–28–6	Dichlorophenylarsine
P037	60–57–1	Dieldrin
P037	60–57–1	2,7:3,6-Dimethanonaphth[2,3-b]oxirene, 3,4,5,6,9,9-hexachloro-1a,2,2a,3,6,6a,7,7a-octahydro-, (1aalpha,2beta,2aalpha,3beta,6beta,6aalpha,7beta, 7aalpha)-
P038	692–42–2	Arsine, diethyl-
P038	692–42–2	Diethylarsine
P039	298–04–4	Disulfoton
P039	298–04–4	Phosphorodithioic acid, O,O-diethyl S-[2-(ethylthio)ethyl] ester
P040	297–97–2	O,O-Diethyl O-pyrazinyl phosphorothioate
P040	297–97–2	Phosphorothioic acid, O,O-diethyl O-pyrazinyl ester
P041	311–45–5	Diethyl-p-nitrophenyl phosphate
P041	311–45–5	Phosphoric acid, diethyl 4-nitrophenyl ester
P042	51–43–4	1,2-Benzenediol, 4-[1-hydroxy-2-(methylamino)ethyl]-, (R)-
P042	51–43–4	Epinephrine
P043	55–91–4	Diisopropylfluorophosphate (DFP)
P043	55–91–4	Phosphorofluoridic acid, bis(1-methylethyl) ester
P044	60–51–5	Dimethoate
P044	60–51–5	Phosphorodithioic acid, O,O-dimethyl S-[2-(methyl amino)-2-oxoethyl] ester
P045	39196–18–4	2-Butanone, 3,3-dimethyl-1-(methylthio)-, O-[(methylamino)carbonyl] oxime
P045	39196–18–4	Thiofanox
P046	122–09–8	Benzeneethanamine, alpha,alpha-dimethyl-
P046	122–09–8	alpha,alpha-Dimethylphenethylamine
P047	[1] 534–52–1	4,6-Dinitro-o-cresol, & salts
P047	[1] 534–52–1	Phenol, 2-methyl-4,6-dinitro-, & salts
P048	51–28–5	2,4-Dinitrophenol
P048	51–28–5	Phenol, 2,4-dinitro-
P049	541–53–7	Dithiobiuret
P049	541–53–7	Thioimidodicarbonic diamide $[(H_2 N)C(S)]_2 NH$
P050	115–29–7	Endosulfan
P050	115–29–7	6,9-Methano-2,4,3-benzodioxathiepin, 6,7,8,9,10,10-hexachloro-1,5,5a,6,9,9a-hexahydro-, 3-oxide
P051	[1] 72–20–8	2,7:3,6-Dimethanonaphth [2,3-b]oxirene, 3,4,5,6,9,9-hexachloro-1a,2,2a,3,6,6a,7,7a-octahydro-, (1aalpha,2beta,2abeta,3alpha,6alpha,6abeta,7beta, 7aalpha)-, & metabolites
P051	72–20–8	Endrin
P051	72–20–8	Endrin, & metabolites
P054	151–56–4	Aziridine
P054	151–56–4	Ethyleneimine
P056	7782–41–4	Fluorine
P057	640–19–7	Acetamide, 2-fluoro-
P057	640–19–7	Fluoroacetamide
P058	62–74–8	Acetic acid, fluoro-, sodium salt
P058	62–74–8	Fluoroacetic acid, sodium salt
P059	76–44–8	Heptachlor
P059	76–44–8	4,7-Methano-1H-indene, 1,4,5,6,7,8,8-heptachloro-3a,4,7,7a-tetrahydro-
P060	465–73–6	1,4,5,8-Dimethanonaphthalene, 1,2,3,4,10,10-hexa-chloro-1,4,4a,5,8,8a-hexahydro-, (1alpha,4alpha,4abeta,5beta,8beta,8abeta)-
P060	465–73–6	Isodrin
P062	757–58–4	Hexaethyl tetraphosphate
P062	757–58–4	Tetraphosphoric acid, hexaethyl ester
P063	74–90–8	Hydrocyanic acid
P063	74–90–8	Hydrogen cyanide
P064	624–83–9	Methane, isocyanato-
P064	624–83–9	Methyl isocyanate
P065	628–86–4	Fulminic acid, mercury(2+) salt (R,T)
P065	628–86–4	Mercury fulminate (R,T)
P066	16752–77–5	Ethanimidothioic acid, N-[[(methylamino)carbonyl]oxy]-, methyl ester
P066	16752–77–5	Methomyl
P067	75–55–8	Aziridine, 2-methyl-
P067	75–55–8	1,2-Propylenimine
P068	60–34–4	Hydrazine, methyl-
P068	60–34–4	Methyl hydrazine
P069	75–86–5	2-Methyllactonitrile
P069	75–86–5	Propanenitrile, 2-hydroxy-2-methyl-
P070	116–06–3	Aldicarb
P070	116–06–3	Propanal, 2-methyl-2-(methylthio)-, O-[(methylamino)carbonyl]oxime
P071	298–00–0	Methyl parathion

NUMERICAL LIST—Continued

Hazardous waste No.	Chemical abstracts No.	Substance
P071	298–00–0	Phosphorothioic acid, O,O,-dimethyl O-(4-nitrophenyl) ester
P072	86–88–4	alpha-Naphthylthiourea
P072	86–88–4	Thiourea, 1-naphthalenyl-
P073	13463–39–3	Nickel carbonyl
P073	13463–39–3	Nickel carbonyl $Ni(CO)_4$, (T-4)-
P074	557–19–7	Nickel cyanide
P074	557–19–7	Nickel cyanide $Ni(CN)_2$
P075	[1] 54–11–5	Nicotine, & salts
P075	[1] 54–11–5	Pyridine, 3-(1-methyl-2-pyrrolidinyl)-, (S)-, & salts
P076	10102–43–9	Nitric oxide
P076	10102–43–9	Nitrogen oxide NO
P077	100–01–6	Benzenamine, 4-nitro-
P077	100–01–6	p-Nitroaniline
P078	10102–44–0	Nitrogen dioxide
P078	10102–44–0	Nitrogen oxide NO_2
P081	55–63–0	Nitroglycerine (R)
P081	55–63–0	1,2,3-Propanetriol, trinitrate (R)
P082	62–75–9	Methanamine, -methyl-N-nitroso-
P082	62–75–9	N-Nitrosodimethylamine
P084	4549–40–0	N-Nitrosomethylvinylamine
P084	4549–40–0	Vinylamine, -methyl-N-nitroso-
P085	152–16–9	Diphosphoramide, octamethyl-
P085	152–16–9	Octamethylpyrophosphoramide
P087	20816–12–0	Osmium oxide OsO_4, (T-4)-
P087	20816–12–0	Osmium tetroxide
P088	145–73–3	Endothall
P088	145–73–3	7-Oxabicyclo[2.2.1]heptane-2,3-dicarboxylic acid
P089	56–38–2	Parathion
P089	56–38–2	Phosphorothioic acid, O,O-diethyl O-(4-nitrophenyl) ester
P092	62–38–4	Mercury, (acetato-O)phenyl-
P092	62–38–4	Phenylmercury acetate
P093	103–85–5	Phenylthiourea
P093	103–85–5	Thiourea, phenyl-
P094	298–02–2	Phorate
P094	298–02–2	Phosphorodithioic acid, O,O-diethyl S-[(ethylthio)methyl] ester
P095	75–44–5	Carbonic dichloride
P095	75–44–5	Phosgene
P096	7803–51–2	Hydrogen phosphide
P096	7803–51–2	Phosphine
P097	52–85–7	Famphur
P097	52–85–7	Phosphorothioic acid, O-[4-[(dimethylamino)sulfonyl]phenyl] O,O-dimethyl ester
P098	151–50–8	Potassium cyanide
P098	151–50–8	Potassium cyanide K(CN)
P099	506–61–6	Argentate(1-), bis(cyano-C)-, potassium
P099	506–61–6	Potassium silver cyanide
P101	107–12–0	Ethyl cyanide
P101	107–12–0	Propanenitrile
P102	107–19–7	Propargyl alcohol
P102	107–19–7	2-Propyn-1-ol
P103	630–10–4	Selenourea
P104	506–64–9	Silver cyanide
P104	506–64–9	Silver cyanide Ag(CN)
P105	26628–22–8	Sodium azide
P106	143–33–9	Sodium cyanide
P106	143–33–9	Sodium cyanide Na(CN)
P108	[1] 157–24–9	Strychnidin-10-one, & salts
P108	[1] 157–24–9	Strychnine, & salts
P109	3689–24–5	Tetraethyldithiopyrophosphate
P109	3689–24–5	Thiodiphosphoric acid, tetraethyl ester
P110	78–00–2	Plumbane, tetraethyl-
P110	78–00–2	Tetraethyl lead
P111	107–49–3	Diphosphoric acid, tetraethyl ester
P111	107–49–3	Tetraethyl pyrophosphate
P112	509–14–8	Methane, tetranitro-(R)
P112	509–14–8	Tetranitromethane (R)
P113	1314–32–5	Thallic oxide
P113	1314–32–5	Thallium oxide $Tl_2 O_3$
P114	12039–52–0	Selenious acid, dithallium(1+) salt
P114	12039–52–0	Tetraethyldithiopyrophosphate
P115	7446–18–6	Thiodiphosphoric acid, tetraethyl ester
P115	7446–18–6	Plumbane, tetraethyl-

NUMERICAL LIST—Continued

Hazardous waste No.	Chemical abstracts No.	Substance
P116	79–19–6	Tetraethyl lead
P116	79–19–6	Thiosemicarbazide
P118	75–70–7	Methanethiol, trichloro-
P118	75–70–7	Trichloromethanethiol
P119	7803–55–6	Ammonium vanadate
P119	7803–55–6	Vanadic acid, ammonium salt
P120	1314–62–1	Vanadium oxide V_2O_5
P120	1314–62–1	Vanadium pentoxide
P121	557–21–1	Zinc cyanide
P121	557–21–1	Zinc cyanide $Zn(CN)_2$
P122	1314–84–7	Zinc phosphide $Zn_3 P_2$, when present at concentrations greater than 10% (R,T)
P123	8001–35–2	Toxaphene
P127	1563–66–2	7-Benzofuranol, 2,3-dihydro-2,2-dimethyl-, methylcarbamate.
P127	1563–66–2	Carbofuran
P128	315–8–4	Mexacarbate
P128	315–18–4	Phenol, 4-(dimethylamino)-3,5-dimethyl-, methylcarbamate (ester)
P185	26419–73–8	1,3-Dithiolane-2-carboxaldehyde, 2,4-dimethyl-, O-[(methylamino)-carbonyl]oxime.
P185	26419–73–8	Tirpate
P188	57–64–7	Benzoic acid, 2-hydroxy-, compd. with (3aS-cis)-1,2,3,3a,8,8a-hexahydro-1,3a,8-trimethylpyrrolo[2,3-b]indol-5-yl methylcarbamate ester (1:1)
P188	57–64–7	Physostigmine salicylate
P189	55285–14–8	Carbamic acid, [(dibutylamino)-thio]methyl-, 2,3-dihydro-2,2-dimethyl-7-benzofuranyl ester
P189	55285–14–8	Carbosulfan
P190	1129–41–5	Carbamic acid, methyl-, 3-methylphenyl ester
P190	1129–41–5	Metolcarb
P191	644–64–4	Carbamic acid, dimethyl-, 1-[(dimethyl-amino)carbonyl]-5-methyl-1H-pyrazol-3-yl ester
P191	644–64–4	Dimetilan
P192	119–38–0	Carbamic acid, dimethyl-, 3-methyl-1-(1-methylethyl)-1H-pyrazol-5-yl ester
P192	119–38–0	Isolan
P194	23135–22–0	Ethanimidthioic acid, 2-(dimethylamino)-N-[[(methylamino) carbonyl]oxy]-2-oxo-, methyl ester
P194	23135–22–0	Oxamyl
P196	15339–36–3	Manganese, bis(dimethylcarbamodithioato-S,S′)-,
P196	15339–36–3	Manganese dimethyldithiocarbamate
P197	17702–57–7	Formparanate
P197	17702–57–7	Methanimidamide, N,N-dimethyl-N′-[2-methyl-4-[[(methylamino)carbonyl]oxy]phenyl]-
P198	23422–53–9	Formetanate hydrochloride
P198	23422–53–9	Methanimidamide, N,N-dimethyl-N′-[3-[[(methylamino)-carbonyl]oxy]phenyl]-monohydrochloride
P199	2032–65–7	Methiocarb
P199	2032–65–7	Phenol, (3,5-dimethyl-4-(methylthio)-, methylcarbamate
P201	2631–37–0	Phenol, 3-methyl-5-(1-methylethyl)-, methyl carbamate
P201	2631–37–0	Promecarb
P202	64–00–6	m-Cumenyl methylcarbamate
P202	64–00–6	3-Isopropylphenyl N-methylcarbamate
P202	64–00–6	Phenol, 3-(1-methylethyl)-, methyl carbamate
P203	1646–88–4	Aldicarb sulfone
P203	1646–88–4	Propanal, 2-methyl-2-(methyl-sulfonyl)-, O-[(methylamino)carbonyl] oxime
P204	57–47–6	Physostigmine
P204	57–47–6	Pyrrolo[2,3-b]indol-5-ol, 1,2,3,3a,8,8a-hexahydro-1,3a,8-trimethyl-, methylcarbamate (ester), (3aS-cis)-
P205	137–30–4	Zinc, bis(dimethylcarbamodithioato-S,S′)-,
P205	137–30–4	Ziram

[1] CAS Number given for parent compound only.

* * * * *

(f) * * *

[*Comment:* * * * Wastes are first listed in alphabetical order by substance and then listed again in numerical order by Hazardous Waste Number.]

NUMERICAL LIST

Hazardous Waste No.	Chemical abstracts No.	Substance
*	*	* * * * * *
U226	71–55–6	1,1,1-Trichloroethane
*	*	* * * * * *
U001	75–07–0	Acetaldehyde (I)
U001	75–07–0	Ethanal (I)
U002	67–64–1	Acetone (I)
U002	67–64–1	2-Propanone (I)

NUMERICAL LIST—Continued

Hazardous Waste No.	Chemical abstracts No.	Substance
U003	75–05–8	Acetonitrile (I,T)
U004	98–86–2	Acetophenone
U004	98–86–2	Ethanone, 1-phenyl-
U005	53–96–3	Acetamide, -9H-fluoren-2-yl-
U005	53–96–3	2-Acetylaminofluorene
U006	75–36–5	Acetyl chloride (C,R,T)
U007	79–06–1	Acrylamide
U007	79–06–1	2-Propenamide
U008	79–10–7	Acrylic acid (I)
U008	79–10–7	2-Propenoic acid (I)
U009	107–13–1	Acrylonitrile
U009	107–13–1	2-Propenenitrile
U010	50–07–7	Azirino[2′,3′:3,4]pyrrolo[1,2-a]indole-4,7-dione, 6-amino-8-[[(aminocarbonyl)oxy]methyl]-1,1a,2,8,8a,8b-hexahydro-8a-methoxy-5-methyl-, [1aS-(1aalpha, 8beta,8aalpha,8balpha)]-
U010	50–07–7	Mitomycin C
U011	61–82–5	Amitrole
U011	61–82–5	1H-1,2,4-Triazol-3-amine
U012	62–53–3	Aniline (I,T)
U012	62–53–3	Benzenamine (I,T)
U014	492–80–8	Auramine
U014	492–80–8	Benzenamine, 4,4′-carbonimidoylbis[N,N-dimethyl-
U015	115–02–6	Azaserine
U015	115–02–6	L-Serine, diazoacetate (ester)
U016	225–51–4	Benz[c]acridine
U017	98–87–3	Benzal chloride
U017	98–87–3	Benzene, (dichloromethyl)-
U018	56–55–3	Benz[a]anthracene
U019	71–43–2	Benzene (I,T)
U020	98–09–9	Benzenesulfonic acid chloride (C,R)
U020	98–09–9	Benzenesulfonyl chloride (C,R)
U021	92–87–5	Benzidine
U021	92–87–5	[1,1′-Biphenyl]-4,4′-diamine
U022	50–32–8	Benzo[a]pyrene
U023	98–07–7	Benzene, (trichloromethyl)-
U023	98–07–7	Benzotrichloride (C,R,T)
U024	111–91–1	Dichloromethoxy ethane
U024	111–91–1	Ethane, 1,1′-[methylenebis(oxy)]bis[2-chloro-
U025	111–44–4	Dichloroethyl ether
U025	111–44–4	Ethane, 1,1′-oxybis[2-chloro-
U026	494–03–1	Chlornaphazin
U026	494–03–1	Naphthalenamine, N,N′-bis(2-chloroethyl)-
U027	108–60–1	Dichloroisopropyl ether
U027	108–60–1	Propane, 2,2′-oxybis[2-chloro-
U028	117–81–7	1,2-Benzenedicarboxylic acid, bis(2-ethylhexyl) ester
U028	117–81–7	Diethylhexyl phthalate
U029	74–83–9	Methane, bromo-
U029	74–83–9	Methyl bromide
U030	101–55–3	Benzene, 1-bromo-4-phenoxy-
U030	101–55–3	4-Bromophenyl phenyl ether
U031	71–36–3	1-Butanol (I)
U031	71–36–3	n-Butyl alcohol (I)
U032	13765–19–0	Calcium chromate
U032	13765–19–0	Chromic acid H_2CrO_4, calcium salt
U033	353–50–4	Carbonic difluoride
U033	353–50–4	Carbon oxyfluoride (R,T)
U034	75–87–6	Acetaldehyde, trichloro-
U034	75–87–6	Chloral
U035	305–03–3	Benzenebutanoic acid, 4-[bis(2-chloroethyl)amino]-
U035	305–03–3	Chlorambucil
U036	57–74–9	Chlordane, alpha & gamma isomers
U036	57–74–9	4,7-Methano-1H-indene, 1,2,4,5,6,7,8,8-octachloro-2,3,3a,4,7,7a-hexahydro-
U037	108–90–7	Benzene, chloro-
U037	108–90–7	Chlorobenzene
U038	510–15–6	Benzeneacetic acid, 4-chloro-alpha-(4-chlorophenyl)-alpha-hydroxy-, ethyl ester
U038	510–15–6	Chlorobenzilate
U039	59–50–7	p-Chloro-m-cresol
U039	59–50–7	Phenol, 4-chloro-3-methyl-
U041	106–89–8	Epichlorohydrin
U041	106–89–8	Oxirane, (chloromethyl)-
U042	110–75–8	2-Chloroethyl vinyl ether
U042	110–75–8	Ethene, (2-chloroethoxy)-

NUMERICAL LIST—Continued

Hazardous Waste No.	Chemical abstracts No.	Substance
U043	75–01–4	Ethene, chloro-
U043	75–01–4	Vinyl chloride
U044	67–66–3	Chloroform
U044	67–66–3	Methane, trichloro-
U045	74–87–3	Methane, chloro- (I,T)
U045	74–87–3	Methyl chloride (I,T)
U046	107–30–2	Chloromethyl methyl ether
U046	107–30–2	Methane, chloromethoxy-
U047	91–58–7	beta-Chloronaphthalene
U047	91–58–7	Naphthalene, 2-chloro-
U048	95–57–8	o-Chlorophenol
U048	95–57–8	Phenol, 2-chloro-
U049	3165–93–3	Benzenamine, 4-chloro-2-methyl-, hydrochloride
U049	3165–93–3	4-Chloro-o-toluidine, hydrochloride
U050	218–01–9	Chrysene
U051		Creosote
U052	1319–77–3	Cresol (Cresylic acid)
U052	1319–77–3	Phenol, methyl-
U053	4170–30–3	2-Butenal
U053	4170–30–3	Crotonaldehyde
U055	98–82–8	Benzene, (1-methylethyl)-(I)
U055	98–82–8	Cumene (I)
U056	110–82–7	Benzene, hexahydro-(I)
U056	110–82–7	Cyclohexane (I)
U057	108–94–1	Cyclohexanone (I)
U058	50–18–0	Cyclophosphamide
U058	50–18–0	2H-1,3,2-Oxazaphosphorin-2-amine, N,N-bis(2-chloroethyl)tetrahydro-, 2-oxide
U059	20830–81–3	Daunomycin
U059	20830–81–3	5,12-Naphthacenedione, 8-acetyl-10-[(3-amino-2,3,6-trideoxy)-alpha-L-lyxo-hexopyranosyl)oxy]-7,8,9,10-tetrahydro-6,8,11-trihydroxy-1-methoxy-, (8S-cis)-
U060	72–54–8	Benzene, 1,1′-(2,2-dichloroethylidene)bis[4-chloro-
U060	72–54–8	DDD
U061	50–29–3	Benzene, 1,1′-(2,2,2-trichloroethylidene)bis[4-chloro-
U061	50–29–3	DDT
U062	2303–16–4	Carbamothioic acid, bis(1-methylethyl)-, S-(2,3-di chloro-2-propenyl) ester
U062	2303–16–4	Diallate
U063	53–70–3	Dibenz[a,h]anthracene
U064	189–55–9	Benzo[rst]pentaphene
U064	189–55–9	Dibenzo[a,i]pyrene
U066	96–12–8	1,2-Dibromo-3-chloropropane
U066	96–12–8	Propane, 1,2-dibromo-3-chloro-
U067	106–93–4	Ethane, 1,2-dibromo-
U067	106–93–4	Ethylene dibromide
U068	74–95–3	Methane, dibromo-
U068	74–95–3	Methylene bromide
U069	84–74–2	1,2-Benzenedicarboxylic acid, dibutyl ester
U069	84–74–2	Dibutyl phthalate
U070	95–50–1	Benzene, 1,2-dichloro-
U070	95–50–1	o-Dichlorobenzene
U071	541–73–1	Benzene, 1,3-dichloro-
U071	541–73–1	m-Dichlorobenzene
U072	106–46–7	Benzene, 1,4-dichloro-
U072	106–46–7	p-Dichlorobenzene
U073	91–94–1	[1,1′-Biphenyl]-4,4′-diamine, 3,3′-dichloro-
U073	91–94–1	3,3′-Dichlorobenzidine
U074	764–41–0	2-Butene, 1,4-dichloro-(I,T)
U074	764–41–0	1,4-Dichloro-2-butene (I,T)
U075	75–71–8	Dichlorodifluoromethane
U075	75–71–8	Methane, dichlorodifluoro-
U076	75–34–3	Ethane, 1,1-dichloro-
U076	75–34–3	Ethylidene dichloride
U077	107–06–2	Ethane, 1,2-dichloro-
U077	107–06–2	Ethylene dichloride
U078	75–35–4	1,1-Dichloroethylene
U078	75–35–4	Ethene, 1,1-dichloro-
U079	156–60–5	1,2-Dichloroethylene
U079	156–60–5	Ethene, 1,2-dichloro-, (E)-
U080	75–09–2	Methane, dichloro-
U080	75–09–2	Methylene chloride
U081	120–83–2	2,4-Dichlorophenol

NUMERICAL LIST—Continued

Hazardous Waste No.	Chemical abstracts No.	Substance
U081	120–83–2	Phenol, 2,4-dichloro-
U082	87–65–0	2,6-Dichlorophenol
U082	87–65–0	Phenol, 2,6-dichloro-
U083	78–87–5	Propane, 1,2-dichloro-
U083	78–87–5	Propylene dichloride
U084	542–75–6	1,3-Dichloropropene
U084	542–75–6	1-Propene, 1,3-dichloro-
U085	1464–53–5	2,2′-Bioxirane
U085	1464–53–5	1,2:3,4-Diepoxybutane (I,T)
U086	1615–80–1	N,N′-Diethylhydrazine
U086	1615–80–1	Hydrazine, 1,2-diethyl-
U087	3288–58–2	O,O-Diethyl S-methyl dithiophosphate
U087	3288–58–2	Phosphorodithioic acid, O,O-diethyl S-methyl ester
U088	84–66–2	1,2-Benzenedicarboxylic acid, diethyl ester
U088	84–66–2	Diethyl phthalate
U089	56–53–1	Diethylstilbesterol
U089	56–53–1	Phenol, 4,4′-(1,2-diethyl-1,2-ethenediyl)bis-, (E)-
U090	94–58–6	1,3-Benzodioxole, 5-propyl-
U090	94–58–6	Dihydrosafrole
U091	119–90–4	[1,1′-Biphenyl]-4,4′-diamine, 3,3′-dimethoxy-
U091	119–90–4	3,3′-Dimethoxybenzidine
U092	124–40–3	Dimethylamine (I)
U092	124–40–3	Methanamine, -methyl-(I)
U093	60–11–7	Benzenamine, N,N-dimethyl-4-(phenylazo)-
U093	60–11–7	p-Dimethylaminoazobenzene
U094	57–97–6	Benz[a]anthracene, 7,12-dimethyl-
U094	57–97–6	7,12-Dimethylbenz[a]anthracene
U095	119–93–7	[1,1′-Biphenyl]-4,4′-diamine, 3,3′-dimethyl-
U095	119–93–7	3,3′-Dimethylbenzidine
U096	80–15–9	alpha,alpha-Dimethylbenzylhydroperoxide (R)
U096	80–15–9	Hydroperoxide, 1-methyl-1-phenylethyl-(R)
U097	79–44–7	Carbamic chloride, dimethyl-
U097	79–44–7	Dimethylcarbamoyl chloride
U098	57–14–7	1,1-Dimethylhydrazine
U098	57–14–7	Hydrazine, 1,1-dimethyl-
U099	540–73–8	1,2-Dimethylhydrazine
U099	540–73–8	Hydrazine, 1,2-dimethyl-
U101	105–67–9	2,4-Dimethylphenol
U101	105–67–9	Phenol, 2,4-dimethyl-
U102	131–11–3	1,2-Benzenedicarboxylic acid, dimethyl ester
U102	131–11–3	Dimethyl phthalate
U103	77–78–1	Dimethyl sulfate
U103	77–78–1	Sulfuric acid, dimethyl ester
U105	121–14–2	Benzene, 1-methyl-2,4-dinitro-
U105	121–14–2	2,4-Dinitrotoluene
U106	606–20–2	Benzene, 2-methyl-1,3-dinitro-
U106	606–20–2	2,6-Dinitrotoluene
U107	117–84–0	1,2-Benzenedicarboxylic acid, dioctyl ester
U107	117–84–0	Di-n-octyl phthalate
U108	123–91–1	1,4-Diethyleneoxide
U108	123–91–1	1,4-Dioxane
U109	122–66–7	1,2-Diphenylhydrazine
U109	122–66–7	Hydrazine, 1,2-diphenyl-
U110	142–84–7	Dipropylamine (I)
U110	142–84–7	1-Propanamine, N-propyl-(I)
U111	621–64–7	Di-n-propylnitrosamine
U111	621–64–7	1-Propanamine, N-nitroso-N-propyl-
U112	141–78–6	Acetic acid ethyl ester (I)
U112	141–78–6	Ethyl acetate (I)
U113	140–88–5	Ethyl acrylate (I)
U113	140–88–5	2-Propenoic acid, ethyl ester (I)
U114	[1]111–54–6	Carbamodithioic acid, 1,2-ethanediylbis-, salts & esters
U114	[1]111–54–6	Ethylenebisdithiocarbamic acid, salts & esters
U115	75–21–8	Ethylene oxide (I,T)
U115	75–21–8	Oxirane (I,T)
U116	96–45–7	Ethylenethiourea
U116	96–45–7	2-Imidazolidinethione
U117	60–29–7	Ethane, 1,1′-oxybis-(I)
U117	60–29–7	Ethyl ether (I)
U118	97–63–2	Ethyl methacrylate
U118	97–63–2	2-Propenoic acid, 2-methyl-, ethyl ester

NUMERICAL LIST—Continued

Hazardous Waste No.	Chemical abstracts No.	Substance
U119	62–50–0	Ethyl methanesulfonate
U119	62–50–0	Methanesulfonic acid, ethyl ester
U120	206–44–0	Fluoranthene
U121	75–69–4	Methane, trichlorofluoro-
U121	75–69–4	Trichloromonofluoromethane
U122	50–00–0	Formaldehyde
U123	64–18–6	Formic acid (C,T)
U124	110–00–9	Furan (I)
U124	110–00–9	Furfuran (I)
U125	98–01–1	2-Furancarboxaldehyde (I)
U125	98–01–1	Furfural (I)
U126	765–34–4	Glycidylaldehyde
U126	765–34–4	Oxiranecarboxyaldehyde
U127	118–74–1	Benzene, hexachloro-
U127	118–74–1	Hexachlorobenzene
U128	87–68–3	1,3-Butadiene, 1,1,2,3,4,4-hexachloro-
U128	87–68–3	Hexachlorobutadiene
U129	58–89–9	Cyclohexane, 1,2,3,4,5,6-hexachloro-, (1alpha,2alpha,3beta,4alpha,5alpha,6beta)-
U129	58–89–9	Lindane
U130	77–47–4	1,3-Cyclopentadiene, 1,2,3,4,5,5-hexachloro-
U130	77–47–4	Hexachlorocyclopentadiene
U131	67–72–1	Ethane, hexachloro-
U131	67–72–1	Hexachloroethane
U132	70–30–4	Hexachlorophene
U132	70–30–4	Phenol, 2,2′-methylenebis[3,4,6-trichloro-
U133	302–01–2	Hydrazine (R,T)
U134	7664–39–3	Hydrofluoric acid (C,T)
U134	7664–39–3	Hydrogen fluoride (C,T)
U135	7783–06–4	Hydrogen sulfide
U135	7783–06–4	Hydrogen sulfide H_2S
U136	75–60–5	Arsinic acid, dimethyl-
U136	75–60–5	Cacodylic acid
U137	193–39–5	Indeno[1,2,3-cd]pyrene
U138	74–88–4	Methane, iodo-
U138	74–88–4	Methyl iodide
U140	78–83–1	Isobutyl alcohol (I,T)
U140	78–83–1	1-Propanol, 2-methyl- (I,T)
U141	120–58–1	1,3-Benzodioxole, 5-(1-propenyl)-
U141	120–58–1	Isosafrole
U142	143–50–0	Kepone
U142	143–50–0	1,3,4-Metheno-2H-cyclobuta[cd]pentalen-2-one, 1,1a,3,3a,4,5,5,5a,5b,6-decachlorooctahydro-
U143	303–34–4	2-Butenoic acid, 2-methyl-, 7-[[2,3-dihydroxy-2-(1-methoxyethyl)-3-methyl-1-oxobutoxy]methyl]-2,3,5,7a-tetrahydro-1H-pyrrolizin-1-yl ester, [1S-[1alpha(Z),7(2S*,3R*),7aalpha]]-
U143	303–34–4	Lasiocarpine
U144	301–04–2	Acetic acid, lead(2+) salt
U144	301–04–2	Lead acetate
U145	7446–27–7	Lead phosphate
U145	7446–27–7	Phosphoric acid, lead(2+) salt (2:3)
U146	1335–32–6	Lead, bis(acetato-O)tetrahydroxytri-
U146	1335–32–6	Lead subacetate
U147	108–31–6	2,5-Furandione
U147	108–31–6	Maleic anhydride
U148	123–33–1	Maleic hydrazide
U148	123–33–1	3,6-Pyridazinedione, 1,2-dihydro-
U149	109–77–3	Malononitrile
U149	109–77–3	Propanedinitrile
U150	148–82–3	Melphalan
U150	148–82–3	L-Phenylalanine, 4-[bis(2-chloroethyl)amino]-
U151	7439–97–6	Mercury
U152	126–98–7	Methacrylonitrile (I,T)
U152	126–98–7	2-Propenenitrile, 2-methyl- (I,T)
U153	74–93–1	Methanethiol (I,T)
U153	74–93–1	Thiomethanol (I,T)
U154	67–56–1	Methanol (I)
U154	67–56–1	Methyl alcohol (I)
U155	91–80–5	1,2-Ethanediamine, N,N-dimethyl-N′-2-pyridinyl-N′-(2-thienylmethyl)-
U155	91–80–5	Methapyrilene
U156	79–22–1	Carbonochloridic acid, methyl ester (I,T)
U156	79–22–1	Methyl chlorocarbonate (I,T)
U157	56–49–5	Benz[j]aceanthrylene, 1,2-dihydro-3-methyl-
U157	56–49–5	3-Methylcholanthrene

NUMERICAL LIST—Continued

Hazardous Waste No.	Chemical abstracts No.	Substance
U158	101–14–4	Benzenamine, 4,4′-methylenebis[2-chloro-
U158	101–14–4	4,4′-Methylenebis(2-chloroaniline)
U159	78–93–3	2-Butanone (I,T)
U159	78–93–3	Methyl ethyl ketone (MEK) (I,T)
U160	1338–23–4	2-Butanone, peroxide (R,T)
U160	1338–23–4	Methyl ethyl ketone peroxide (R,T)
U161	108–10–1	Methyl isobutyl ketone (I)
U161	108–10–1	4-Methyl-2-pentanone (I)
U161	108–10–1	Pentanol, 4-methyl-
U162	80–62–6	Methyl methacrylate (I,T)
U162	80–62–6	2-Propenoic acid, 2-methyl-, methyl ester (I,T)
U163	70–25–7	Guanidine, -methyl-N′-nitro-N-nitroso-
U163	70–25–7	MNNG
U164	56–04–2	Methylthiouracil
U164	56–04–2	4(1H)-Pyrimidinone, 2,3-dihydro-6-methyl-2-thioxo-
U165	91–20–3	Naphthalene
U166	130–15–4	1,4-Naphthalenedione
U166	130–15–4	1,4-Naphthoquinone
U167	134–32–7	1-Naphthalenamine
U167	134–32–7	alpha-Naphthylamine
U168	91–59–8	2-Naphthalenamine
U168	91–59–8	beta-Naphthylamine
U169	98–95–3	Benzene, nitro-
U169	98–95–3	Nitrobenzene (I,T)
U170	100–02–7	p-Nitrophenol
U170	100–02–7	Phenol, 4-nitro-
U171	79–46–9	2-Nitropropane (I,T)
U171	79–46–9	Propane, 2-nitro- (I,T)
U172	924–16–3	1-Butanamine, N-butyl-N-nitroso-
U172	924–16–3	N-Nitrosodi-n-butylamine
U173	1116–54–7	Ethanol, 2,2′-(nitrosoimino)bis-
U173	1116–54–7	N-Nitrosodiethanolamine
U174	55–18–5	Ethanamine, -ethyl-N-nitroso-
U174	55–18–5	N-Nitrosodiethylamine
U176	759–73–9	N-Nitroso-N-ethylurea
U176	759–73–9	Urea, N-ethyl-N-nitroso-
U177	684–93–5	N-Nitroso-N-methylurea
U177	684–93–5	Urea, N-methyl-N-nitroso-
U178	615–53–2	Carbamic acid, methylnitroso-, ethyl ester
U178	615–53–2	N-Nitroso-N-methylurethane
U179	100–75–4	N-Nitrosopiperidine
U179	100–75–4	Piperidine, 1-nitroso-
U180	930–55–2	N-Nitrosopyrrolidine
U180	930–55–2	Pyrrolidine, 1-nitroso-
U181	99–55–8	Benzenamine, 2-methyl-5-nitro-
U181	99–55–8	5-Nitro-o-toluidine
U182	123–63–7	1,3,5-Trioxane, 2,4,6-trimethyl-
U182	123–63–7	Paraldehyde
U183	608–93–5	Benzene, pentachloro-
U183	608–93–5	Pentachlorobenzene
U184	76–01–7	Ethane, pentachloro-
U184	76–01–7	Pentachloroethane
U185	82–68–8	Benzene, pentachloronitro-
U185	82–68–8	Pentachloronitrobenzene (PCNB)
U186	504–60–9	1-Methylbutadiene (I)
U186	504–60–9	1,3-Pentadiene (I)
U187	62–44–2	Acetamide, -(4-ethoxyphenyl)-
U187	62–44–2	Phenacetin
U188	108–95–2	Phenol
U189	1314–80–3	Phosphorus sulfide (R)
U189	1314–80–3	Sulfur phosphide (R)
U190	85–44–9	1,3-Isobenzofurandione
U190	85–44–9	Phthalic anhydride
U191	109–06–8	2-Picoline
U191	109–06–8	Pyridine, 2-methyl-
U192	23950–58–5	Benzamide, 3,5-dichloro-N-(1,1-dimethyl-2-propynyl)-
U192	23950–58–5	Pronamide
U193	1120–71–4	1,2-Oxathiolane, 2,2-dioxide
U193	1120–71–4	1,3-Propane sultone
U194	107–10–8	1-Propanamine (I,T)
U194	107–10–8	n-Propylamine (I,T)

NUMERICAL LIST—Continued

Hazardous Waste No.	Chemical abstracts No.	Substance
U196	110–86–1	Pyridine
U197	106–51–4	p-Benzoquinone
U197	106–51–4	2,5-Cyclohexadiene-1,4-dione
U200	50–55–5	Reserpine
U200	50–55–5	Yohimban-16-carboxylic acid, 11,17-dimethoxy-18-[(3,4,5-trimethoxybenzoyl)oxy]-, methyl ester,(3beta,16beta,17alpha,18beta,20alpha)-
U201	108–46–3	1,3-Benzenediol
U201	108–46–3	Resorcinol
U202	181–07–2	1,2-Benzisothiazol-3(2H)-one, 1,1-dioxide, & salts
U202	181–07–2	Saccharin, & salts
U203	94–59–7	1,3-Benzodioxole, 5-(2-propenyl)-
U203	94–59–7	Safrole
U204	7783–00–8	Selenious acid
U204	7783–00–8	Selenium dioxide
U205	7488–56–4	Selenium sulfide
U205	7488–56–4	Selenium sulfide SeS_2 (R,T)
U206	18883–66–4	Glucopyranose, 2-deoxy-2-(3-methyl-3-nitrosoureido)-, D-
U206	18883–66–4	D-Glucose, 2-deoxy-2-[[(methylnitrosoamino)-carbonyl]amino]-
U206	18883–66–4	Streptozotocin
U207	95–94–3	Benzene, 1,2,4,5-tetrachloro-
U207	95–94–3	1,2,4,5-Tetrachlorobenzene
U208	630–20–6	Ethane, 1,1,1,2-tetrachloro-
U208	630–20–6	1,1,1,2-Tetrachloroethane
U209	79–34–5	Ethane, 1,1,2,2-tetrachloro-
U209	79–34–5	1,1,2,2-Tetrachloroethane
U210	127–18–4	Ethene, tetrachloro-
U210	127–18–4	Tetrachloroethylene
U211	56–23–5	Carbon tetrachloride
U211	56–23–5	Methane, tetrachloro-
U213	109–99–9	Furan, tetrahydro-(I)
U213	109–99–9	Tetrahydrofuran (I)
U214	563–68–8	Acetic acid, thallium(1+) salt
U214	563–68–8	Thallium(I) acetate
U215	6533–73–9	Carbonic acid, dithallium(1+) salt
U215	6533–73–9	Thallium(I) carbonate
U216	7791–12–0	Thallium(I) chloride
U216	7791–12–0	Thallium chloride TlCl
U217	10102–45–1	Nitric acid, thallium(1+) salt
U217	10102–45–1	Thallium(I) nitrate
U218	62–55–5	Ethanethioamide
U218	62–55–5	Thioacetamide
U219	62–56–6	Thiourea
U220	108–88–3	Benzene, methyl-
U220	108–88–3	Toluene
U221	25376–45–8	Benzenediamine, ar-methyl-
U221	25376–45–8	Toluenediamine
U222	636–21–5	Benzenamine, 2-methyl-, hydrochloride
U222	636–21–5	o-Toluidine hydrochloride
U223	26471–62–5	Benzene, 1,3-diisocyanatomethyl- (R,T)
U223	26471–62–5	Toluene diisocyanate (R,T)
U225	75–25–2	Bromoform
U225	75–25–2	Methane, tribromo-
U226	71–55–6	Ethane, 1,1,1-trichloro-
U226	71–55–6	Methyl chloroform
U226	71–55–6	1,1,1-Trichloroethane
U227	79–00–5	Ethane, 1,1,2-trichloro-
U227	79–00–5	1,1,2-Trichloroethane
U228	79–01–6	Ethene, trichloro-
U228	79–01–6	Trichloroethylene
U234	99–35–4	Benzene, 1,3,5-trinitro-
U234	99–35–4	1,3,5-Trinitrobenzene (R,T)
U235	126–72–7	1-Propanol, 2,3-dibromo-, phosphate (3:1)
U235	126–72–7	Tris(2,3-dibromopropyl) phosphate
U236	72–57–1	2,7-Naphthalenedisulfonic acid, 3,3′-[(3,3′-dimethyl[1,1′-biphenyl]-4,4′-diyl)bis(azo)bis[5-amino-4-hydroxy]-, tetrasodium salt
U236	72–57–1	Trypan blue
U237	66–75–1	2,4-(1H,3H)-Pyrimidinedione, 5-[bis(2-chloroethyl)amino]-
U237	66–75–1	Uracil mustard
U238	51–79–6	Carbamic acid, ethyl ester
U238	51–79–6	Ethyl carbamate (urethane)
U239	1330–20–7	Benzene, dimethyl- (I,T)

NUMERICAL LIST—Continued

Hazardous Waste No.	Chemical abstracts No.	Substance
U239	1330–20–7	Xylene (I)
U240	[1] 94–75–7	Acetic acid, (2,4-dichlorophenoxy)-, salts & esters
U240	[1] 94–75–7	2,4-D, salts & esters
U243	1888–71–7	Hexachloropropene
U243	1888–71–7	1-Propene, 1,1,2,3,3,3-hexachloro-
U244	137–26–8	Thioperoxydicarbonic diamide $[(H_2N)C(S)]_2 S_2$, tetramethyl-
U244	137–26–8	Thiram
U246	506–68–3	Cyanogen bromide (CN)Br
U247	72–43–5	Benzene, 1,1′-(2,2,2-trichloroethylidene)bis[4- methoxy-
U247	72–43–5	Methoxychlor
U248	[1] 81–81–2	2H-1-Benzopyran-2-one, 4-hydroxy-3-(3-oxo-1-phenyl-butyl)-, & salts, when present at concentrations of 0.3% or less
U248	[1] 81–81–2	Warfarin, & salts, when present at concentrations of 0.3% or less
U249	1314–84–7	Zinc phosphide $Zn_3 P_2$, when present at concentrations of 10% or less
U271	17804–35–2	Benomyl
U271	17804–35–2	Carbamic acid, [1-[(butylamino)carbonyl]-1H-benzimidazol-2-yl]-, methyl ester
U278	22781–23–3	Bendiocarb
U278	22781–23–3	1,3-Benzodioxol-4-ol, 2,2-dimethyl-, methyl carbamate
U279	63–25–2	Carbaryl
U279	63–25–2	1-Naphthalenol, methylcarbamate
U280	101–27–9	Barban
U280	101–27–9	Carbamic acid, (3-chlorophenyl)-, 4-chloro-2-butynyl ester
U328	95–53–4	Benzenamine, 2-methyl-
U328	95–53–4	o-Toluidine
U353	106–49–0	Benzenamine, 4-methyl-
U353	106–49–0	p-Toluidine
U359	110–80–5	Ethanol, 2-ethoxy-
U359	110–80–5	Ethylene glycol monoethyl ether
U364	22961–82–6	Bendiocarb phenol
U364	22961–82–6	1,3-Benzodioxol-4-ol, 2,2-dimethyl-,
U367	1563–38–8	7-Benzofuranol, 2,3-dihydro-2,2-dimethyl-
U367	1563–38–8	Carbofuran phenol
U372	10605–21–7	Carbamic acid, 1H-benzimidazol-2-yl, methyl ester
U372	10605–21–7	Carbendazim
U373	122–42–9	Carbamic acid, phenyl-, 1-methylethyl ester
U373	122–42–9	Propham
U387	52888–80–9	Carbamothioic acid, dipropyl-, S-(phenylmethyl) ester
U387	52888–80–9	Prosulfocarb
U389	2303–17–5	Carbamothioic acid, bis(1-methylethyl)-, S-(2,3,3-trichloro-2-propenyl) ester
U389	2303–17–5	Triallate
U394	30558–43–1	A2213
U394	30558–43–1	Ethanimidothioic acid, 2-(dimethylamino)-N-hydroxy-2-oxo-, methyl ester
U395	5952–26–1	Diethylene glycol, dicarbamate
U395	5952–26–1	Ethanol, 2,2′-oxybis-, dicarbamate
U404	121–44–8	Ethanamine, N,N-diethyl-
U404	121–44–8	Triethylamine
U409	23564–05–8	Carbamic acid, [1,2-phenylenebis (iminocarbonothioyl)]bis-, dimethyl ester
U409	23564–05–8	Thiophanate-methyl
U410	59669–26–0	Ethanimidothioic acid, N,N′-[thiobis[(methylimino)carbonyloxy]]bis-, dimethyl ester
U410	59669–26–0	Thiodicarb
U411	114–26–1	Phenol, 2-(1-methylethoxy)-, methylcarbamate
U411	114–26–1	Propoxur
See F027	93–76–5	Acetic acid, (2,4,5-trichlorophenoxy)-
See F027	87–86–5	Pentachlorophenol
See F027	87–86–5	Phenol, pentachloro-
See F027	58–90–2	Phenol, 2,3,4,6-tetrachloro-
See F027	95–95–4	Phenol, 2,4,5-trichloro-
See F027	88–06–2	Phenol, 2,4,6-trichloro-
See F027	93–72–1	Propanoic acid, 2-(2,4,5-trichlorophenoxy)-
See F027	93–72–1	Silvex (2,4,5-TP)
See F027	93–76–5	2,4,5-T
See F027	58–90–2	2,3,4,6-Tetrachlorophenol
See F027	95–95–4	2,4,5-Trichlorophenol
See F027	88–06–2	2,4,6-Trichlorophenol

[1] CAS Number given for parent compound only.

§ 261.38 [Amended]

■ 16–21. Amend § 261.38 as follows:

■ a. In Table 1 to § 261.38, revise the column one subheading "Halogenated Organic:" to read "Halogenated Organics:"; and under "Halogenated

Organics:", insert a closing bracket "]" after the chemical name "Dichloromethoxy ethane [Bis(2-chloroethoxy)methane".

■ b. Amend the certification statement in paragraph (c)(1)(i)(C)(*4*) by revising the citation "40 CFR 261.28(c)(10)" to read "40 CFR 261.38(c)(10)".

Appendix VII to Part 261—[Amended]

■ 22–23. In Part 261 Appendix VII, amend the entries for "F002", "F038", "F039", "K001", and "K073" as follows:

■ a. In the second column of the "F002" row, revise "trichfluoroethane" to read "trifluoroethane";

■ b. In the second column of the "F038" row, add a comma between "benzo(a)pyrene" and "chrysene" to read "benzo(a)pyrene, chrysene";

■ c. In the second column of the "F039" row, revise the citation "40 CFR 268.43(a)" to read "40 CFR 268.43";

■ d. In the second column of the "K001" row, revise "cresosote" to read "creosote";

■ e. In the second column of the "K073" row, revise "hexacholroethane" to read "hexachloroethane".

Appendix VIII to Part 261—[Amended]

■ 24. Amend Part 261 Appendix VIII by amending the entries for "Allyl chloride", "Benzidine", § 1,2-Dichloroethylene", "Lasiocarpine", and "Nitrosamines, N.O.S." to read as follows:

■ a. In the third column of the "Allyl chloride" row, revise "107–18–6" to read "107–05–1";

■ b. In the second column of the "Benzidine" row, amend "-4,4^{1}-" by changing the superscript "1" to the symbol "'" to read, "-4,4'-";

■ c. In the second column of the "1,2-Dichloroethylene" row, revise "-dichlrol-" to read "-dichloro-";

■ d. In the third and fourth columns of the "Lasiocarpine" row, revise "303–34–1" to read "303–34–4"; and revise "4143" to read "U143";

■ e. In the third column of the "Nitrosamines, N.O.S." row, revise "35576–91–1D" to read "35576–91–1".

PART 262—STANDARDS APPLICABLE TO GENERATORS OF HAZARDOUS WASTE

■ 25. The authority citation for part 262 continues to read as follows:

Authority: 42 U.S.C. 6906, 6912, 6922–6925, 6937, and 6938.

§ 262.34 [Amended]

■ 26. Amend § 262.34(a)(1)(iv) by removing the beginning phrase "The waste is placed in containment buildings" and adding in its place the phrase "In containment buildings".

■ 27. Section 262.53 is amended by revising paragraph (b) to read as follows:

§ 262.53 Notification of Intent to Export.

* * * * *

(b) Notifications submitted by mail should be sent to the following mailing address: Office of Enforcement and Compliance Assurance, Office of Federal Activities, International Compliance Assurance Division (2254A), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460. Hand-delivered notifications should be sent to: Office of Enforcement and Compliance Assurance, Office of Federal Activities, International Compliance Assurance Division, Environmental Protection Agency, Ariel Rios Bldg., Room 6144, 12th St. and Pennsylvania Ave., NW., Washington, DC 20004. In both cases, the following shall be prominently displayed on the front of the envelope: "Attention: Notification of Intent to Export.".

* * * * *

■ 28. Section 262.56 is amended by revising paragraph (b) to read as follows:

§ 262.56 Annual Reports.

* * * * *

(b) Annual reports submitted by mail should be sent to the following mailing address: Office of Enforcement and Compliance Assurance, Office of Federal Activities, International Compliance Assurance Division (2254A), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460. Hand-delivered reports should be sent to: Office of Enforcement and Compliance Assurance, Office of Federal Activities, International Compliance Assurance Division, Environmental Protection Agency, Ariel Rios Bldg., Room 6144, 12th St. and Pennsylvania Ave., NW., Washington, DC 20004.

■ 29. Section 262.58 is amended by revising paragraph (a)(1) to read as follows:

§ 262.58 International Agreements.

(a) * * *

(1) For the purposes of subpart H, the designated OECD Member countries consist of Australia, Austria, Belgium, the Czech Republic, Denmark, Finland, France, Germany, Greece, Hungary, Iceland, Ireland, Italy, Japan, Luxembourg, the Netherlands, New Zealand, Norway, Poland, Portugal, the Slovak Republic, South Korea, Spain, Sweden, Switzerland, Turkey, the United Kingdom, and the United States.

* * * * *

§ 262.70 [Amended]

■ 30. Amend § 262.70 by revising the word "consisent" to read "consistent".

§ 262.81 [Amended]

■ 31. In § 262.81, amend paragraph (k) by revising "RCRA Information Center (RIC), 1235 Jefferson-Davis Highway, first floor, Arlington, VA 22203" to read "RCRA Docket, EPA/DC, EPA West, Room B102, 1301 Constitution Ave., NW., Washington, DC 20460".

§ 262.82 [Amended]

■ 32. In § 262.82, amend paragraph (a)(1)(ii) by revising the phrase "Green-list waste" to read "Green-list wastes".

■ 33. Amend § 262.83 as follows:

■ a. Amend paragraph (b)(1)(i) by revising "Office of Compliance, Enforcement Planning, Targeting and Data Division (2222A)" to read "Office of Federal Activities, International Compliance Assurance Division (2254A)".

■ b. Revise paragraph (b)(2)(i) to read as follows:

§ 262.83 Notification and consent.

* * * * *

(b) * * *

(2) * * *

(i) The notifier must provide EPA the information identified in paragraph (e) of this section in English, at least 10 days in advance of commencing shipment to a pre-approved facility. The notification should indicate that the recovery facility is pre-approved, and may apply to a single specific shipment or to multiple shipments as described in paragraph (b)(1)(i) of this section. This information must be sent to the Office of Enforcement and Compliance Assurance, Office of Federal Activities, International Compliance Assurance Division (2254A), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460, with the words "Attention: OECD Export Notification—Pre-approved Facility" prominently displayed on the envelope.

* * * * *

■ 34–35. Section 262.84 is amended by revising paragraph (e) to read as follows:

§ 262.84 Tracking document.

* * * * *

(e) Within three working days of the receipt of imports subject to this Subpart, the owner or operator of the U.S. recovery facility must send signed copies of the tracking document to the notifier, to the Office of Enforcement and Compliance Assurance, Office of Federal Activities, International Compliance Assurance Division (2254A), Environmental Protection

Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460, and to the competent authorities of the exporting and transit countries.

§ 262.87 [Amended]

■ 36. Amend § 262.87 as follows:
■ a. In paragraph (a) revise "Office of Compliance, Enforcement Planning, Targeting and Data Division (2222A)", to read, "Office of Federal Activities, International Compliance Assurance Division (2254A)";
■ b. Amend paragraph (a)(5) introductory text by inserting a space in "100kg" and "1000kg" to read "100 kg" and "1000 kg".

§ 262.90 [Amended]

■ 37.–38. Amend § 262.90 in paragraph (c)(2)(vii) by revising "newpaper" to read "newspaper"; and in paragraph (d)(2) by revising "directed.This" by adding a space after the period to read "directed. This".

PART 264—STANDARDS FOR OWNERS AND OPERATORS OF HAZARDOUS WASTE TREATMENT, STORAGE, AND DISPOSAL FACILITIES

■ 39.–40. The authority citation for Part 264 continues to read as follows:

Authority: 42 U.S.C. 6905, 6912(a), 6924 and 6925.

§ 264.1 [Amended]

■ 41. In § 264.1, amend paragraph (g)(2) by revising "subparts C, D, F, or G" to read "subparts C, F, G, or H".

§ 264.4 [Amended]

■ 42. Amend § 264.4 by revising "purusant" to read "pursuant".

§ 264.13 [Amended]

■ 43. In § 264.13, amend paragraph (b)(7)(iii)(B) by revising the semicolon at the end of the subsection into a colon.

§ 264.17 [Amended]

■ 44. In § 264.17, amend paragraph (b) introductory text by revising the word "reactons" to read "reactions".

§ 264.18 [Amended]

■ 45. In § 264.18, amend paragraph (a)(2)(iii) by revising "Quarternary" to read "Quaternary"; and amend paragraph (b)(2)(iii) by revising "exeeded" to read "exceeded".

§ 264.97 [Amended]

■ 46. Amend § 264.97 as follows:
■ a. In paragraph (a)(1) introductory text, revise "background water" to read "background ground water";
■ b. In paragraph (a)(1)(i), revise "background quality" to read "background ground-water quality";
■ c. In paragraph (i)(5), revise "tha can be" to read "that can be".

§ 264.98 [Amended]

■ 47. Amend § 264.98 as follows:
■ a. In paragraph (a)(2), revise "persistance" to read "persistence";
■ b. In paragraph (g)(4)(i), revise "concentration or any" to read "concentration of any".

§ 264.99 [Amended]

■ 48. In § 264.99, amend paragraph (h)(2) introductory text, by revising the citation "§ 264.98(h)(5)" to read "§ 264.98(g)(5)".

§ 264.101 [Amended]

■ 49. In § 264.101, amend paragraph (d) by revising the phrase "This does not apply" to read "This section does not apply".

§ 264.111 [Amended]

■ 50. In § 264.111, amend paragraph (c) by revising the word "subpart" to read "part".

§ 264.112 [Amended]

■ 51. In § 264.112, amend paragraph (b)(8) by revising the citation "264.110(d)" to read "264.110(c)".

§ 264.115 [Amended]

■ 52. Amend § 264.115 by eliminating the second period at the end of the first sentence.

§ 264.116 [Amended]

■ 53. Amend § 264.116 by revising "landfills cells" to read "landfill cells".

§ 264.118 [Amended]

■ 54. In § 264.118, amend paragraph (c) by revising the citation "§ 264.188(b)(3)" to read "§ 264.118(b)(3)".

§ 264.119 [Amended]

■ 55. In § 264.119, amend paragraph (b)(1)(ii) by revising the citation "40 CFR subpart G" to read "40 CFR part 264, subpart G".

§ 264.140 [Amended]

■ 56. In § 264.140, amend paragraph (d)(1) by revising the citation "§ 264.110(d)" to read "§ 264.110(c)".

§ 264.142 [Amended]

■ 57. In § 264.142, amend paragraph (b)(2) by revising "mutliplying" to read "multiplying".

§ 264.143 [Amended]

■ 58. Amend § 264.143 as follows:
■ a. In paragraph (b)(7), revise "then the penal sum" to read "than the penal sum";
■ b. In paragraph (b)(8), revise "as evidence by" to read "as evidenced by";
■ c. In paragraph (e)(5), revise "signficantly" to read "significantly".

§ 264.145 [Amended]

■ 59. Amend § 264.145 as follows:
■ a. In paragraph (a)(3)(i), revise "anniversay" to read "anniversary";
■ b. In paragraph (d)(6), revise "issued in a amount" to read "issued in an amount";
■ c. In paragraph (f)(11) introductory text, revise "for this section" to read "of this section"; and revise "the direct of higher-tier" to read "the direct or higher-tier".

§ 264.147 [Amended]

■ 60. In § 264.147, amend paragraph (h)(1) by revising "letter or credit" to read "letter of credit".

§ 264.151 [Amended]

■ 61. Amend § 264.151 as follows:
■ a. In paragraph (b), in the section "Corporate Surety(ies)," remove the bracket (]) after "State of incorporation";
■ b. In paragraph (f) introductory paragraph, revise the second occurrence of the citation "265.143(e)" to read "265.145(e)";
■ c. In paragraph (g), in the fifth paragraph of the LETTER FROM CHIEF FINANCIAL OFFICER, revise ""nonsudden" of" to read ""nonsudden" or";
■ d. In paragraph (g), in Item 3. of the LETTER FROM CHIEF FINANCIAL OFFICER, revise "subpart H or 40 CFR" to read "subpart H of 40 CFR";
■ e. In paragraph (g), in Part A, ALTERNATIVE I item *3., revise "Current $" to read "Current liabilities $";
■ f. In paragraph (g), in Part B, ALTERNATIVE I item 10., insert an asterisk (*) before "10.";
■ g. In paragraph (g), in Part B, ALTERNATIVE I item 15., remove the comma after the word "If";
■ h. In paragraph (g), in Part B, ALTERNATIVE II item *7., remove the underline before the "$";
■ i.–j. In paragraph (h)(2), under the section GUARANTEE FOR LIABILITY COVERAGE, in the second sentence, revise "or which guarantor" to read "of which guarantor"; and revise the phrase "[either 264.141(h)]" to read "[either 264.141(h) or 265.141(h)]";
■ k. In paragraph (h)(2), under the section RECITALS, item 13.(a), under the subsection CERTIFICATION OF VALID CLAIM, insert a closing bracket (]) after "[Principal's";

■ l. In paragraph (h)(2), under the section RECITALS, item 14, last line, revise "Signature of witness of notary" to read "Signature of witness or notary";
■ m. In paragraph (i), following item 2.(e), after "[Title]" revise "Authorized Representive" to read "Authorized Representative";
■ n. In paragraph (j), item 2.(d), revise "corportation" to read "corporation";
■ o. In paragraph (k), in the section IRREVOCABLE STANDBY LETTER OF CREDIT, delete the opening quotation mark before "(1)" before the subsection CERTIFICATE OF VALID CLAIM, and insert a closing bracket (]) at the end of the phrase after (2) to read "Grantor's facility or group of facilities.]";
■ p. In paragraph (k), in the section CERTIFICATE OF VALID CLAIM, in the paragraph following (2), revise "[date] at least one year later]" to read "[date at least one year later]";
■ q. In paragraph (l), revise the citations "§ 264.147(h) or § 265.147(h)" to read "§ 264.147(i) or § 265.147(i)";
■ r. In paragraph (l), in the subsection CERTIFICATION OF VALID CLAIM, in the introductory paragraph, revise "accidential" to read "accidental";
■ s. In paragraph (m)(1), in the CERTIFICATION OF VALID CLAIM Section 8.(c), revise both instances of "depositary" to read "depository";
■ t.–u. In paragraph (n)(1), under STANDBY TRUST AGREEMENT, in Section 3.(c)(1), revise "employee or" to read "employee of";
■ v. In paragraph (n)(1), Section 3.(e)(3), insert the word "by" after "Property loaned" to read "Property loaned by";
■ w. In paragraph (n)(1), Section 12., third sentence, replace the semicolon after "the appointment" with a comma;
■ x. In paragraph (n)(1), Section 16., second sentence, revise "reasonable" to read "reasonably".

§ 264.175 [Amended]

■ 62. In § 264.175, amend paragraph (b)(1) by revising "underly" to read "underlie".

§ 264.193 [Amended]

■ 63. Amend § 264.193 as follows:
■ a. In the third sentence of the NOTE following paragraph (c)(4), revise "sub]ect" to read "subject";
■ b. In paragraph (d)(4), insert a period at the end of the sentence;
■ c. In paragraph (e)(2)(ii), replace the colon with a semicolon;
■ d. In paragraph (e)(2)(iii), replace the colon with a semicolon;
■ e. In paragraph (e)(2)(v)(A), revise the citation "§ 262.21" to read "§ 261.21";
■ f. In paragraph (e)(2)(v)(B), revise the citation "§ 262.21" to read "§ 261.23", and replace the period after the word "vapor" with a semicolon and add the word "and";
■ g. In paragraph (e)(3)(i), replace the period at the end with a semicolon;
■ h. In paragraph (e)(3)(ii), replace the colon with a semicolon;
■ i. In paragraph (g)(1)(iii), replace the comma after the word "water" with a semi-colon;
■ j. In paragraph (g)(1)(iv), insert a period at the end of the paragraph;
■ k. In paragraph (g)(2)(i)(A), replace the period with a comma.

§ 264.221 [Amended]

■ 64. Amend § 264.221 as follows:
■ a. In paragraph (c)(1)(i)(B), revise "1x10/$^{-7}$/ cm/sec" to read "1x10^{-7} cm/sec";
■ b. In paragraph (c)(2)(ii), revise "1x10/$^{-1}$/ cm/sec" to read "1x10^{-1} cm/sec" and revise "3x10/$^{-4}$/ m^{2}sec" to read "3x10^{-4} m^2/sec";
■ c. In paragraph (e)(1), revise "EP toxicity characteristics in" to read "toxicity characteristic in";
■ d. In paragraph (e)(2)(i)(B), revise the citation "§ 144.3 of this chapter" to read "40 CFR 270.2"; and add quotation marks around "underground source of drinking water".
■ e. In paragraph (e)(2)(i)(C), revise "requrements" to read "requirements".

§ 264.223 [Amended]

■ 65. In § 264.223, amend paragraph (b)(1) by revising "exceedence" to read "exceedance".

§ 264.226 [Amended]

■ 66. In § 264.226, amend paragraph (a)(2) by revising "inperfections" to read "imperfections".

§ 264.251 [Amended]

■ 67. In § 264.251, amend paragraph (a)(2)(i)(A) by revising "resistent" to read "resistant".

§ 264.252 [Amended]

■ 68. Amend § 264.252 as follows:
■ a. In paragraph (a), revise "surface impoundment units" to read "waste pile units";
■ b. In paragraph (b), remove the comma after the citation "§ 264.254(c)".

§ 264.259 [Amended]

■ 69. In § 264.259, amend paragraph (b) by removing the comma between the word "and" and "F027".

§ 264.280 [Amended]

■ 70. Amend § 264.280 as follows:
■ a. In paragraph (c)(7), revise "expect that" to read "except that";
■ b. In paragraph (d), introductory text, revise "closure of post-closure" to read "closure or post-closure".

§ 264.283 [Amended]

■ 71. In § 264.283, amend paragraph (a) by removing the comma between the word "and" and "F027".

§ 264.301 [Amended]

■ 72. Amend § 264.301 as follows:
■ a. In paragraph (c)(2), revise "paragraphs (3)(c)(iii) and (iv)" to read "paragraphs (c)(3)(iii) and (iv)";
■ b. In paragraph (e)(2)(i)(B), revise the citation "§ 144.3 of this chapter" to read "40 CFR 270.2"; and add quotation marks around "underground source of drinking water".

§ 264.302 [Amended]

■ 73. Amend § 264.302 as follows:
■ a. In paragraph (a), revise "surface impoundment units" to read "landfill units";
■ b. In paragraph (b), remove the comma after the citation "§ 264.303(c)".

§ 264.304 [Amended]

■ 74. In § 264.304, amend paragraph (b)(1) by revising "exceedence" to read "exceedance".

§ 264.314 [Amended]

■ 75. In § 264.314, amend paragraph (e)(2) by revising the citation "§ 144.3 of this chapter" to read "40 CFR 270.2"; and by adding quotation marks around "underground source of drinking water".

§ 264.317 [Amended]

■ 76. In § 264.317, amend paragraph (a) introductory text by revising "in a landfills" to read "in a landfill".

§ 264.344 [Amended]

■ 77. In § 264.344, amend paragraph (b) by revising "new wastes may be be based" to read "new wastes may be based".

§ 264.552 [Amended]

■ 78. Amend § 264.552 as follows:
■ a. In paragraph (e)(4)(iii), replace the colon at the end of the paragraph with a period;
■ b. In paragraph (e)(4)(iv)(F), revise the citation "40 CFR 260.11(11)" to read "40 CFR 260.11(a)(11)";
■ c. In paragraph (e)(6)(iii)(E), revise "Hydrological" to read "Hydrogeological".

§ 264.553 [Amended]

■ 79. In § 264.553, amend paragraph (e) introductory text by revising "the Administrator" to read "the Regional Administrator".

§ 264.554 [Amended]

■ 80. In § 264.554, amend paragraph (a) introductory text by revising "Director

in according" to read "Director according".

§ 264.555 [Amended]

■ 81. In § 264.555, amend paragraph (e)(6) by revising the word "miminal" to read "minimal".

§ 264.573 [Amended]

■ 82. Amend § 264.573 as follows:
■ a. In paragraph (a)(1), revise "non-earthern" to read "non-earthen"; and replace the colon at the end of the paragraph with a semicolon;
■ b. In paragraph (a)(4)(i), revise both occurrences of "1x10^{-7}" to read "1x10^{-7}"; and revise the citations "§ 264.572(a) instead of § 264.572(b)" to read "§ 264.572(b) instead of § 264.572(a)";
■ c. In paragraph (a)(5), revise "perations" to read "operations";
■ d. In paragraph (b) introductory text, revise the citations "§ 264.572(b) instead of § 264.572(a)" to read "§ 264.572(a) instead of § 264. 572(b)";
■ e. In paragraph (m)(2) and in paragraph (m)(3) twice, revise "clean up" to read "cleanup".

§ 264.600 [Amended]

■ 83. Amend § 264.600 by revising "miscellanenous" to read "miscellaneous"; and by revising "provide" to read "provides".

§ 264.601 [Amended]

■ 84. Amend § 264.601 as follows:
■ a. In paragraph (a) introductory text, revise "heath" to read "health";
■ b. In paragraph (b)(11), revise "constitutents" to read "constituents";
■ c. In paragraph (c)(4), revise "metorologic" to read "meteorologic".

§ 264.1030 [Amended]

■ 85. Amend § 264.1030(c) by revising "owner and operator receives" to read "owner and operator receive"; and revise "owner and operator is subject" to read "owner and operator are subject".

§ 264.1033 [Amended]

■ 86. In § 264.1033, amend paragraph (f)(2)(vii)(B) by replacing the period after the word "regular" with a comma.

§ 264.1034 [Amended]

■ 87. In § 264.1034, amend paragraph (b)(2) by removing the "(6)" in front of the phrase "The detection".

§ 264.1035 [Amended]

■ 88. Amend § 264.1035 as follows:
■ a. In paragraph (c)(4)(i), replace the period after the first instance of "760 °C" with a comma;
■ b. In paragraph (c)(4)(ii), insert a comma after the word "greater".

§ 264.1050 [Amended]

■ 89. In § 264.1050, amend paragraph (f) by revising the citation "§ 264,1064(g)(6)" to read "§ 264.1064(g)(6)".

§ 264.1058 [Amended]

■ 90. In § 264.1058, amend paragraph (c)(1) by replacing the period after the second occurrence of the word "detected" with a comma.

§ 264.1064 [Amended]

■ 91. In § 264.1064, amend paragraph (c)(3) by removing the second section symbol (§) in the citation "§§ 264.1057(c)".

§ 264.1080 [Amended]

■ 92. Amend § 264.1080 as follows:
■ a. In paragraph (a), revise "subparts I, J, or K" to read "subpart "I, J, or K";
■ b. In paragraph (c), last sentence, revise "owner and operator is subject" to read "owner and operator are subject".

§ 264.1090 [Amended]

■ 93. In § 264.1090, amend paragraph (c) by removing the third sentence.

§ 264.1101 [Amended]

■ 94. Amend § 264.1101 as follows:
■ a. In paragraph (b)(3)(iii), revise the citation "§ 264.193(d)(1)" to read "§ 264.193(e)(1)";
■ b. In paragraph (c)(3) introductory text, revise "hazardous waste, must repair" to read "hazardous waste, the owner or operator must repair";
■ c. In paragraph (c)(3)(i), revise "lead" to read "led";
■ d. In paragraph (d) introductory text, revise "For containment buildings that contain areas both" to read "For a containment building that contains both areas".

§ 264.1102 [Amended]

■ 95. In § 264.1102, amend paragraph (a) by removing the comma after "etc.".

■ 96. Amend Appendix I to Part 264 as follows:
■ a. In Table 1, add unit of measure codes for "Pounds", "Short tons", "Kilograms", and "Tons" at the end of the table to read as set forth below; and
■ b. In Table 2 at Section 2.(d), revise the line "T75 Tricking filter" to read "T75 Trickling filter".

Appendix I to Part 264—Recordkeeping Instructions.

TABLE 1

Unit of measure	Code [1]

TABLE 1—Continued

Unit of measure	Code [1]
* * * * *	
Pounds	P
Short tons	T
Kilograms	K
Tons	M

[1] Single digit symbols are used here for data processing purposes.

* * * * *

PART 265—INTERIM STATUS STANDARDS FOR OWNERS AND OPERATORS OF HAZARDOUS WASTE TREATMENT, STORAGE, AND DISPOSAL FACILITIES

■ 97. The authority citation for part 265 is revised to read as follows:

Authority: 42 U.S.C. 6905, 6906, 6912, 6922, 6923, 6924, 6925, 6935, 6936, and 6937.

§ 265.1 [Amended]

■ 98. Amend § 265.1 as follows:
■ a. In paragraph (c)(4)(i) remove the phrase, "As stated in paragraph (c)(2) of this section,";
■ b. In paragraph (c)(6), revise "subparts C, D, F, or G" to read "subparts C, F, G, or H".

§ 265.12 [Amended]

■ 99. In § 265.12, amend paragraph (a)(1) by revising "of the date of the waste" to read "of the date the waste".

§ 265.14 [Amended]

■ 100. In § 265.14, amend paragraph (b)(1) by revising "guards of facility personnel" to read "guards or facility personnel".

§ 265.16 [Amended]

■ 101. In § 265.16, amend paragraph (b) by revising "successfuly" to read "successfully".

§ 265.19 [Amended]

■ 102. In § 265.19, amend paragraph (c)(2) last sentence, by revising "264.254(c)(1)" to read "264.251(c)(1)".

§ 265.56 [Amended]

■ 103. In § 265.56, amend paragraph (b) by revising "a real" to read "areal" (one word).

§ 265.90 [Amended]

■ 104. In § 265.90, amend paragraph (d) introductory text by removing the comma after the phrase "he may".

§ 265.110 [Amended]

■ 105. In § 265.110, amend paragraph (b)(4) by revising "building" to read "buildings".

§ 265.111 [Amended]

■ 106. In § 265.111, amend paragraph (c) by revising the citation "264.1102" to read "265.1102".

§ 265.112 [Amended]

■ 107. Amend § 265.112 as follows:
■ a. In paragraph (b)(5), revise "partial and final closure period" to read "partial and final closure periods";
■ b. In paragraph (d)(4), in the next to last sentence, revise the citation "§§ with 265.111" to read "§§ 265.111"; revise "part, §§ 265.197" to read "part, and §§ 265.197"; and revise the citation "264.1102" to read "265.1102".

§ 265.113 [Amended]

■ 108. Amend § 265.113 as follows:
■ a. In paragraph (b) introductory text, revise "extenstion" to read "extension";
■ b. In paragraph (e)(4), revise "oonstituents" to read "constituents".

§ 265.117 [Amended]

■ 109. In § 265.117, amend paragraph (b) introductory text by revising "Administator" to read "Administrator".

§ 265.119 [Amended]

■ 110. In § 265.119, amend paragraph (b)(1)(ii) by revising the citation "40 CFR subpart G" to read "40 CFR part 265, subpart G".

§ 265.140 [Amended]

■ 111. Amend § 265.140 as follows:
■ a. In paragraph (b) introductory text, revise the citation "265.146" to read "265.145";
■ b. In paragraph (b)(2), revise the citation "§ 264.197" to read "§ 265.197".

§ 265.142 [Amended]

■ 112. In § 265.142, amend paragraph (a) by removing "265.178" from the list of sections.

§ 265.145 [Amended]

■ 113. Amend § 265.145 as follows:
■ a. In paragraph (e)(11), first sentence, revise "for this section" to read "of this section";
■ b. In paragraph (e)(11), second sentence, revise "direct of higher-tier" to read "direct or higher-tier";
■ c. In paragraph (e)(11), third sentence, revise the citation "(f)(1) through (9)" to read "(e)(1) through (9)";
■ d. In paragraph (e)(11), fifth sentence, revise the citation "(f)(3)" to read "(e)(3)".

§ 265.147 [Amended]

■ 114. Amend § 265.147 as follows:
■ a. Amend paragraph (a)(1)(i) in the next to last sentence by revising "or Regional Administrator if facilities" to read "or Regional Administrators if the facilities".
■ b. Amend paragraph (b)(1) by adding paragraphs (i) and (ii) to read as follows:

§ 265.147 Liability requirements.

* * * * *

(b) * * *

(1) * * *

(i) Each insurance policy must be amended by attachment of the Hazardous Waste Facility Liability Endorsement or evidenced by a Certificate of Liability Insurance. The wording of the endorsement must be identical to the wording specified in § 264.151(i). The wording of the certificate of insurance must be identical to the wording specified in § 264.151(j). The owner or operator must submit a signed duplicate original of the endorsement or the certificate of insurance to the Regional Administrator, or Regional Administrators if the facilities are located in more than one Region. If requested by a Regional Administrator, the owner or operator must provide a signed duplicate original of the insurance policy.

(ii) Each insurance policy must be issued by an insurer which, at a minimum, is licensed to transact the business of insurance, or eligible to provide insurance as an excess or surplus lines insurer, in one or more States.

* * * * *

§ 265.174 [Amended]

■ 115.–116. Amend § 265.174, by deleting the phrase "and the containment system".

§ 265.193 [Amended]

■ 117. Amend § 265.193 as follows:
■ a. In paragraph (e)(2)(v)(A), revise the citation "§ 262.21" to read "§ 261.21";
■ b. In paragraph (e)(2)(v)(B), revise the citation "§ 262.21" to read "§ 261.23";
■ c. In paragraph (i)(2), in the last sentence, revise "tanks surfaces" to read "tank surfaces".

§ 265.194 [Amended]

■ 118. In § 265.194, amend paragraphs (b)(1) and (b)(2) by inserting a period after "e.g" in both paragraphs, and in paragraph (b)(1), by revising "discount" to read "disconnect".

§ 265.197 [Amended]

■ 119. In § 265.197, amend paragraph (b) by inserting a period after the closing parenthesis of the citation "(265.310)".

§ 265.201 [Amended]

■ 120. In § 265.201, amend paragraph (c) introductory text, by revising "hazardous in tanks" to read "hazardous waste in tanks".

§ 265.221 [Amended]

■ 121. Amend § 265.221 as follows:
■ a. In paragraph (a), revise "leachate collection and removal system above and between the liners" to read "leachate collection and removal system between the liners";
■ b. In paragraph (d)(2)(i)(A), revise "in leaking?" to read "is leaking"; revise "soil it is not" to read "soil is not"; and revise "the owner of operator" to read "the owner or operator";
■ c. In paragraph (d)(2)(i)(B), revise the citation "§ 144.3 of this chapter" to read "40 CFR 270.2"; and add quotation marks around "underground source of drinking water".

§ 265.224 [Amended]

■ 122–123. In § 265.224, amend paragraph (b)(1) by revising "exceedence" to read "exceedance".

§ 265.228 [Amended]

■ 124. Amend § 265.228 as follows:
■ a. In paragraph (a)(2)(iii)(D), revise "Accomodate" to read "Accommodate";
■ b. In paragraph (b)(2), revise the citation "§§ 265.221(c)(2)(iv)" to read "§§ 264.221(c)(2)(iv)".

§ 265.229 [Amended]

■ 125. Amend § 265.229 by removing paragraph (b)(2) and redesignate paragraphs (b)(3) and (b)(4) as paragraphs (b)(2) and (b)(3), respectively.

§ 265.255 [Amended]

■ 126. Amend § 265.255 in paragraph (b) by revising "surface impoundment units" to read "waste pile units".

§ 265.259 [Amended]

■ 127. In § 265.259, amend paragraph (b)(1) by revising "exceedence" to read "exceedance".

§ 265.280 [Amended]

■ 128. In § 265.280, amend paragraph (a)(4) by revising "gowth" to read "growth".

§ 265.281 [Amended]

■ 129. In § 265.281, amend paragraph (a)(1) by revising the citation "§ 265.21" to read "§ 261.21".

§ 265.301 [Amended]

■ 130. Amend § 265.301 as follows:
■ a. In paragraph (a), revise "in accordance with § 264.301(d), (e), or (f)

of this chapter" to read "in accordance with § 264.301(c), unless exempted under § 264.301(d), (e), or (f) of this chapter";

■ b. In paragraph (d)(1), revise "such waste does not" to read "such wastes do not"; revise the citation "§ 261.4" to read "§ 261.24"; and revise "Hazardous Waste Number" to read "Hazardous Waste Numbers";

■ c. In paragraph (d)(2)(i)(B), revise the citation "§ 144.3 of this chapter" to read "40 CFR 270.2"; and add quotation marks around "underground source of drinking water".

§ 265.302 [Amended]

■ 131. In § 265.302, amend paragraph (b) by revising "surface impoundment units" to read "landfill units".

§ 265.303 [Amended]

■ 132. In § 265.303, amend paragraph (b)(1) by revising "exceedence" to read "exceedance".

§ 265.312 [Amended]

■ 133. In § 265.312, amend paragraph (a)(1) by revising "dissolution or material" to read "dissolution of material".

§ 265.314 [Amended]

■ 134. Amend § 265.314 as follows:

■ a. In paragraph (e)(1)(ii), revise "polysobutylene" to read "polyisobutylene";

■ b. In paragraph (f)(2), revise the citation "§ 144.3 of this chapter" to read "40 CFR 270.2"; and add quotation marks around "underground source of drinking water".

§ 265.316 [Amended]

■ 135. Amend § 265.316 as follows:

■ a. In the introductory text, revise "landfull" to read "landfill";

■ b. In paragraph (c), revise "container's" to read "containers";

■ c. In paragraph (d), revise "§ 260.10(a)" to read "§ 260.10".

§ 265.405 [Amended]

■ 136. In § 265.405, amend paragraph (a)(1) by revising the citation "§ 261.21 or 261.23 or this chapter" to read "§§ 261.21 or 261.23 of this chapter".

§ 265.441 [Amended]

■ 137. In § 265.441, amend paragraph (c) by revising "state Director" to read "State Director".

§ 265.443 [Amended]

■ 138. Amend § 265.443 as follows:

■ a. In paragraph (a)(4)(i), revise the citation "§ 265.442(a) instead of § 265.442(b)" to read "§ 265.442(b) instead of § 265.442(a)";

■ b. In paragraph (b) introductory text, revise the citation "§ 265.442(b) instead of § 265.442(a)" to read "§ 265.442(a) instead of § 265. 442(b)".

§ 265.445 [Amended]

■ 139. In § 265.445, amend paragraph (b) by revising "post/closure care" to read "post-closure care".

§ 265.1033 [Amended]

■ 140. In § 265.1033, amend paragraph (f)(2)(ii) by replacing the period with a comma after "±0.5 °C".

§ 265.1035 [Amended]

■ 141. Amend § 265.1035 as follows:

■ a. In paragraph (b)(2) introductory text, replace the period with a comma after the citation "§ 265.1032";

■ b. In paragraph (b)(2)(i), revise "annual throughput end operating hours" to read "annual throughput and operating hours";

■ c. In paragraph (c)(4)(i), replace the period with a comma after the first occurrence of "760 °C".

§ 265.1063 [Amended]

■ 142. In § 265.1063, amend paragraph (b)(4)(ii) by replacing the period in "10.000" with a comma.

§ 265.1080 [Amended]

■ 143. In § 265.1080, amend paragraph (a) by revising the citation "subparts I, J, or K" to read "subpart I, J, or K".

§ 265.1085 [Amended]

■ 144. In § 265.1085, amend paragraph (h)(3) introductory text, by revising "under either or the following" to read "under either of the following".

§ 265.1087 [Amended]

■ 145. In § 265.1087, amend paragraph (b) by designating the text following the paragraph heading "General requirements" as paragraph (b)(1).

§ 265.1090 [Amended]

■ 146. In § 265.1090, amend paragraph (f)(1) by revising the citation "§ 265.1084(c)(2)(i)" to read "§ 265.1083(c)(2)(i)".

§ 265.1100 [Amended]

■ 147. In § 265.1100, amend paragraph (d) by revising "permit" to read "prevent".

"265.1101 [Amended]

■ 148. Amend § 265.1101 as follows:

■ a. In paragraph (b)(3)(i)(B), revise "trasmissivity" to read "transmissivity";

■ b. In paragraph (b)(3)(iii), revise the citation "§ 265.193(d)(1)" to read "§ 265.193(e)(1)";

■ c. In paragraph (c)(3) introductory text, revise "hazardous waste, must repair" to read "hazardous waste, the owner or operator must repair";

■ d. In paragraph (d) introductory text, revise "For containment" to read "For a containment".

■ 149. Amend Appendix I to part 265 as follows:

■ a. In Table 1, add unit of measure codes for "Pounds," "Short tons," "Kilograms," and "Tons" at the end of the table to read as set forth below;

■ b. In Table 2, Section 2.(d), revise "T75 Tricking filter" to read "T75 Trickling filter";

■ c. In Table 2, Section 4., revise the heading "Miscellaneous (Subpart X)" to read "Miscellaneous";

■ d. In Table, 2, Section 4., revise "X99 Other Subpart X (specify)" to read "X99 Other (specify)".

Appendix I to Part 265—Recordkeeping Instructions

* * * * *

TABLE 1

Unit of measure	Code [1]
* * * * *	
Pounds	P
Short tons	T
Kilograms	K
Tons	M

[1] Single digit symbols are used here for data processing purposes.

* * * * *

Appendix V to Part 265—[Amended]

■ 150. In the table in Appendix V to Part 265, under the Group 1–A column, revise the phrase "Akaline caustic liquids" to read "Alkaline caustic liquids"; and revise "Lime sludge and other corrosive alkalines" to read "Lime sludge and other corrosive alkalies".

Appendix VI to Part 265—[Amended]

■ 151. Amend Appendix VI to part 265 as follows:

■ a. In the entry "Dichlorvos (DDVP)", revise the CAS No. "62737" to read "62–73–7";

■ b. In the entry "Ethylene thiourea (2-imidazolidinethione)" revise the CAS No. "9–64–" to read "96–45–7";

■ c. In the entry "Neopentyl glycol (dimethylolpropane)" revise "dimethylolpropane" to read "dimethylpropane";

■ d. In the entry "1,3-Propane sulfone", revise "sulfone" to read "sultone".

PART 266—STANDARDS FOR THE MANAGEMENT OF SPECIFIC HAZARDOUS WASTES AND SPECIFIC TYPES OF HAZARDOUS WASTE MANAGEMENT FACILITIES

■ 152. The authority citation for part 266 continues to read as follows:

Authority: 42 U.S.C. 1006, 2002(a), 3001–3009, 3014, 6905, 6906, 6912, 6921, 6922, 6924–6927, 6934, and 6937.

§ 266.70 [Amended]

■ 153. In § 266.70, amend paragraph (a) by revising "paladium, irridium" to read "palladium, iridium".

§ 266.80 [Amended]

■ 154. In § 266.80, amend the Table in paragraph (a) by inserting, in the third column, a comma after "(except for § 262.11)" in all four instances.

§ 266.100 [Amended]

■ 155. Amend § 266.100 as follows:
■ a. In paragraph (b)(2)(iv), revise "§ 266.212" to read § 266.112";
■ b. In paragraph (d)(3)(i)(A), revise "appendix IX" to read "appendix XI";
■ c. In paragraph (g) introductory text, revise "paladium, irridium" to read "palladium, iridium".

§ 266.102 [Amended]

■ 156. Amend § 266.102 as follows:
■ a. In paragraph (a)(2)(vi), revise "(Corrective Action)" to read "(Releases from Solid Waste Management Units)";
■ b. In paragraph (e)(3)(i)(E), revise the citation "§ 266.111(b)" to read "§ 266.105(a)";
■ c. In paragraph (e)(5)(i)(C), revise "chorline" to read "chlorine"; and revise "feestocks" to read "feedstocks";
■ d. In paragraph (e)(6)(ii)(B)(2), revise "of preceding" to read "of the preceding";
■ e. In paragraph (e)(8)(iii), revise "values" to read "valves".

■ 157. Amend § 266.103 as follows:
■ a. In paragraph (a)(4)(vii), revise the citation "265.147–265.151" to read "265.147–265.150";
■ b. In paragraph (b)(2)(v)(B)(2), revise "meterological" to read "meteorological";
■ c. In paragraph (b)(5)(ii)(A), revise "on a hourly" to read "on an hourly";
■ d. In paragraph (b)(6)(viii)(A), revise "Ageny" to read "Agency";
■ e. In paragraph (c)(1)(ii)(A)(2), revise "feedsteams" to read "feedstreams";
■ f. In paragraph (c)(1)(ix)(A), revise "ration" to read "ratio";
■ g. In paragraph (c)(4)(iv)(C)(1), revise "on a hourly" to read "on an hourly";
■ h. In paragraph (g)(1)(i), revise "on a hourly" to read "on an hourly".
■ i. Revise paragraphs (c)(1)(i) and (c)(1)(ix) introductory text to read as follows:

§ 266.103 Interim status standards for burners.

* * * * *

(c) * * *

(1) * * *

(i) Feed rate of total hazardous waste and (unless complying with the Tier I or adjusted Tier I metals feed rate screening limits under § 266.106(b) or (e)), pumpable hazardous waste;

* * * * *

(ix) For systems using wet scrubbers, including wet ionizing scrubbers (unless complying with the Tier I or Adjusted Tier I metals feed rate screening limits under § 266.106(b) or (e) and the total chlorine and chloride feed rate screening limits under § 266.107(b)(1) or (e)):

* * * * *

§ 266.106 [Amended]

■ 158–159. In § 266.106, amend paragraph (d)(1) by deleting the second appearance of the phrase "dispersion modeling to predict the maximum annual average off-site ground level concentration for each".

§ 266.109 [Amended]

■ 160. Amend § 266.109 as follows:
■ a. In paragraph (a)(2)(ii), revise "constitutent" to read "constituent" in both instances;
■ b. In paragraph (b) introductory text in the paragraph heading, revise "*particular*" to read "*particulate*".

Subpart N—Conditional Exemption for Low-Level Mixed Waste Storage, Treatment, Transportation and Disposal.

■ 161. Amend Part 266 by revising the subpart heading to read as set forth above.

Appendix III to Part 266—[Amended]

■ 162. Amend Part 266, Appendix III column headings by revising "$C1_2$" to read "Cl_2" three times, and by revising "HC1" to read "HCl" three times (i.e., revise the "1" (one) to be a lower-case letter L in all six cases).

Appendix IV to Part 266—[Amended]

■ 163. Amend Part 266, Appendix IV as follows:
■ a. Revise the entry "Maleic Anyhdride" to read "Maleic Anhydride";
■ b. Revise the entry "2.4.5-Trichlorophenol" to read "2,4,5-Trichlorophenol".

Appendix V to Part 266—[Amended]

■ 164. Amend Part 266, Appendix V as follows:
■ a. Revise the third column heading "Unit risk (m3/µg)" to read "Unit risk (m^3/µg)";
■ b. Revise the fourth column heading "RsD (µg/m3)" to read "RsD (µg/m^3)";
■ c. Revise the entry "Benxene" to read "Benzene";
■ d. Revise the entry "Hexachlorodibenxo-p-dioxin (1,2 Mixture)" to read "Hexachlorodibenzo-p-dioxin (1,2 Mixture)".

Appendix VI to Part 266—[Amended]

■ 165. Amend Part 266, Appendix VI by revising the first column heading "Flow rate (m3/s)" to read "Flow rate (m^3/s)".

Appendix VIII to Part 266—[Amended]

■ 166. Amend Part 266, Appendix VIII in the "Semivolatiles" column, by revising "Plychlorinated" to read "Polychlorinated".

Appendix IX to Part 266—[Amended]

■ 167. Amend Part 266, Appendix IX as follows:
■ a. In the Table of Contents at 4.0, revise "Estimating Toxicity Equipment or" to read "Estimating the Toxicity Equivalence of";
■ b. In the Table of Contents at 9.2, revise "Cl," to read "Cl_2";
■ c. In the Table of Contents at 10.4, revise "Overviev" to read "Overview";
■ d. In Section 2.1.2.9, revise "The PA test" to read "The RA test";
■ e. In Section 2.1.2.10, revise "determination of 0^2" to read "determination of O_2)";
■ f. In Table 2.1–1 footnote 1, revise "of twice the permit limit" to read "or twice the permit limit";
■ g. In Section 2.1.4.6, revise "the PA test" to read "the RA test";
■ h. In Section 2.2.10, first sentence, revise "used In conjunction" to read "used in conjunction";
■ i. In the section 4.0 title, revise "DIBENCO-" to read "DIBENZO-";
■ j. In Section 5.0 at Step 6, footnote 5 first sentence, remove the comma after the phrase "urban and rural areas";
■ k. In Section 5.0 at Table 5.0–5, for distance 10.00, revise the Generic source #1 value "9.4" in the second column to read "29.4";
■ l. In Section 5.0 at Step 7(B), second sentence, insert a closing parenthesis after "(identified in Step 7(A)" to read "(identified in Step 7(A))";
■ m. In Section 5.0 at the Table in Step 10(D)1., replace the comma in column heading ">0,5 – 2.5" with a period to read ">0.5–2.5";
■ n. In Section 5.0 at the Table below Table 5.0–6, revise the column heading

"$C^a(\mu g/m^3)$" to read "$C_a(\mu g/m^3)$"; and revise "$C_{A(>G/M3)}$" to read "$C_a(\mu g/m^3)$";
■ o. In Section 6.2, first paragraph second sentence, revise "Within These" to read "Within these";
■ p. In Section 7.1, second paragraph second sentence, revise "Mulitple" to read "Multiple";
■ q. In Section 7.2, at the last paragraph, revise "This, if" to read "Thus, if";
■ r. In Section 8.0, second paragraph, revise "chorine" to read "chlorine";
■ s. In Section 9.2, in the first sentence, revise the formula "Cl2" to read "Cl_2";
■ t. In Section 10.3, last sentence of next to last paragraph, replace the period in the phrase "To avoid this expense." with a comma;
■ u. In Section 10.5(2), fourth bullet, in the sentence starting "Three of the first five tests", replace the period in "hazardous wastes. and in" with a comma.

Appendix XIII to Part 266—[Amended]

■ 168. Amend Part 266, Appendix XIII at item number 14 by revising "levels or mercury" to read "levels of mercury".

PART 267—STANDARDS FOR OWNERS AND OPERATORS OF HAZARDOUS WASTE FACILITIES OPERATING UNDER A STANDARDIZED PERMIT

■ 169. The authority citation for part 267 continues to read as follows:

Authority: 42 U.S.C. 6902, 6912(a), 6924–6926, and 6930.

§ 267.147 [Amended]

■ 170. In § 267.147, amend paragraph (f)(2)(i)(A) by revising "test for facilities regulated under § 267 and also § 264 or § 265" to read "test for facilities regulated under part 267 and also part 264 or part 265".

PART 268—LAND DISPOSAL RESTRICTIONS

■ 171. The authority citation for part 268 continues to read as follows:

Authority: 42 U.S.C. 6905, 6912(a), 6921, and 6924.

§ 268.2 [Amended]

■ 172. In § 268.2, amend paragraph (g) by revising "A manufactured" to read "a manufactured"; "Any material" to read "any material"; "Process residuals" to read "process residuals"; and "and Intact" to read "and intact".

§ 268.4 [Amended]

■ 173. In § 268.4, amend paragraph (a)(3) introductory text by revising the citation "of part 264 or part 264" to read "of part 264 or part 265".

§ 268.6 [Amended]

■ 174. In § 268.6, amend paragraph (c)(5) introductory text by revising "section meet" to read "section meets".
■ 175. Amend § 268.7 as follows:
■ a. In paragraph (a)(1), insert a closing parenthesis at the end of the sentence that starts "(Alternatively, the generator" and in the second to last sentence, revise "solids contaminated" to read "soils contaminated";
■ b. In paragraph (a)(3)(ii), second sentence, insert the word "column" after the phrase "information in", and insert a closing quotation mark after the citation "268.7(a)(3)";
■ c. In paragraph (a)(4), at entry 8 of the Table, amend "[is subject to/complies with" by inserting a closing bracket ("]") at the end of the phrase;
■ d. In paragraph (b)(3)(ii) at entry 5 of the Table, insert a closing quotation mark after the citation "268.49(c)";
■ e. In paragraph (b)(4)(ii), revise the citation "§ 261.3(e)" to read "§ 261.3(f)";
■ f. In paragraph (c)(2), remove the closing parenthesis from "Leaching Procedure)";
■ g. In paragraph (d) introductory text, revise the citation "§ 261.3(e)" to read "§ 261.3(f)";
■ h. Revise paragraph (d)(1) to read as set forth below;
■ i. In paragraph (d)(2), revise the citation "§ 261.2(e)(1)" to read "§ 261.3(f)(1)";
■ j. In paragraph (d)(3), revise the citation "§ 261.3(e)(1)" to read "§ 261.3(f)(1)".

§ 268.7 Testing, tracking, and recordkeeping requirements for generators, treaters, and disposal facilities.

* * * * *

(d) * * *

(1) A one-time notification, including the following information, must be submitted to the EPA Regional hazardous waste management division director (or his designated representative) or State authorized to implement part 268 requirements:

(i) The name and address of the Subtitle D facility receiving the treated debris;

(ii) A description of the hazardous debris as initially generated, including the applicable EPA Hazardous Waste Number(s); and

(iii) For debris excluded under § 261.3(f)(1) of this chapter, the technology from Table 1, § 268.45, used to treat the debris.

* * * * *

§ 268.14 [Amended]

■ 176. In § 268.14, amend paragraphs (b) and (c) by revising "not withstanding" to read "notwithstanding" in both instances.

§ 268.40 [Amended]

■ 177.–178. Amend § 268.40 as follows:
■ a. In paragraph (g), revise "as definded" to read "as defined".
■ b. Amend the table TREATMENT STANDARDS FOR HAZARDOUS WASTES as follows:
■ 1. At the column heading "Wastewaters", revise "Concentration in mg/L[3]" to read "Concentration [3] in mg/L";
■ 2. At the column heading "Nonwastewaters", revise "Concentration in mg/kg[5]" to read "Concentration[5] in mg/kg";
■ 3. At the entry "K047", in the waste description column, revise "water form TNT" to read "water from TNT";
■ 4. At the entries "K049" and "K051", revise the CAS number for "Chrysene" from "2218–01–9" to read "218–01–9";
■ 5. At the entry "K088", revise the common name "Bemz(a)anthracene" to read "Benz(a)anthracene"; and revise the common name "Indeno(1,2,3,-c,d)pyrene" to read "Indeno(1,2,3-cd)pyrene";
■ 6. At the entry "K111", revise the CAS number for "2,4-Dinitrotoluene" from "121–1–2" to read "121–14–2";
■ 7. At the entry "K114", in the waste description column, revise the common name "dinitrotolune" to read "dinitrotoluene";
■ 8. At the entry "K156", revise the CAS number for "Acetophenone" from "96–86–2" to read "98–86–2"; and revise the CAS number for "Triethylamine" from "101–44–8" to read "121–44–8";
■ 9. At the entry "U202" "Acetone" following "U001", revise "U202" to read "U002";
■ 10. At the entry "U134", revise the CAS number "16984–48–8" to read "7664–39–3";
■ 11. At the entry "U137", revise in the waste description and in the common name columns "Indeno(1,2,3-c,d)pyrene" to read "Indeno(1,2,3-cd)pyrene" in both instances.

§ 268.42 [Amended]

■ 179. In § 268.42, Table 1, amend the entry for Technology code "SSTRP" in the second column as follows:
■ a. In the first sentence, revise "as well as, temperature and pressure ranges have" to read "as well as temperature and pressure ranges, have";
■ b. In the second sentence, insert a comma after the phrase "parameters of the unit"; remove the comma in the phrase "such as, the number"; and replace the period at the end of "the internal column design." with a comma;
■ c. In the third sentence, revise "Thus, resulting" to read "thus resulting".

§ 268.44 [Amended]

■ 180. In § 268.44, amend paragraph (c), last sentence of the certification statement, by revising "I am aware that these are" to read "I am aware that there are".

§ 268.45 [Amended]

■ 181. Amend § 268.45, Table 1, as follows:
■ a. At item B.1., first column, revise "biodegration" to read "biodegradation";
■ b. At item B.2.a., first column, revise "electolytic" to read "electrolytic"; and under number (8), revise "permanganates" to read "permanganates".

§ 268.48 [Amended]

■ 182. Amend § 268.48 Table, UNIVERSAL TREATMENT STANDARDS, as follows:
■ a. At the column heading "Wastewater standard", revise "Concentration in mg/l[2]" to read "Concentration[2] in mg/l";
■ b. At the column heading "Nonwastewater standard", revise "Concentration in mg/kg[3]" to read "Concentration[3] in mg/kg".
■ c. At entry "1,2,3,4,6,7,8-Heptachlorodibenzofluran (1,2,3,4,6,7,8-HpCDF)" revise CAS number "67562–39–5" to read "67562–39–4";
■ d. Revise the next entry "1,2,3,4,6,7,8-Heptachlorodibenzofluran (1,2,3,4,7,8,9-HpCDF)" (CAS number 55673–89–7) to read "1,2,3,4,7,8,9–Heptachlorodibenzofluran (1,2,3,4,7,8,9–HpCDF)".

§ 268.49 [Amended]

■ 183. In § 268.49, amend paragraph (d) by revising "flouride" to read "fluoride".

§ 268.50 [Amended]

■ 184. Amend § 268.50 as follows:
■ a. In paragraph (c), revise "A owner/operator" to read "An owner/operator";
■ b. In paragraph (g), revise "requirements in this do not" to read "requirements in this section do not".

Appendix VIII to Part 268—[Amended]

■ 185. Amend Part 268, Appendix VIII, by removing the second instances of the entries for "K011" "Nonwastewater" and for "K011" "Wastewater".

PART 270—EPA ADMINISTERED PERMIT PROGRAMS: THE HAZARDOUS WASTE PERMIT PROGRAM

■ 186. The authority citation for part 270 continues to read as follows:

Authority: 42 U.S.C. 6905, 6912, 6924, 6925, 6927, 6939, and 6974.

§ 270.1 [Amended]

■ 187. Amend § 270.1 as follows:
■ a. In the table in paragraph (a)(2), after 3001 revise "Indentification" to read "Identification";
■ b. In paragraph (b) introductory text, revise "analagous" to read "analogous";
■ c. In paragraph (c)(1)(iii), revise "it they" to read "if they?";
■ d. In paragraph (c)(3)(i) introductory text, revise "obtain an RCRA" to read "obtain a RCRA".

§ 270.2 [Amended]

■ 188. Amend § 270.2 as follows:
■ a. In the definition of "*On-site*", revise "continguous" to read "contiguous";
■ b. In the definition of "*Publicly owned treatment works (POTW)*", revise "unsed" to read "used".

§ 270.10 [Amended]

■ 189. In § 270.10, amend paragraph (j) by revising "stores, treats, or dispose of" to read "stores, treats, or disposes".

§ 270.11 [Amended]

■ 190. Amend § 270.11 as follows:
■ a. In paragraph (d)(1), revise "paragraph (a) or (b) of this must" to read "paragraph (a) or (b) of this section must";
■ b. In paragraph (d)(2), certification statement, revise "upon information and belief" to read "to the best of my knowledge and belief".

§ 270.13 [Amended]

■ 191. In § 270.13, amend paragraph (k)(7) by revising "Sancturies" to read "Sanctuaries".

§ 270.14 [Amended]

■ 192. Amend § 270.14 as follows:
■ a. In paragraph (a), in next to the last sentence, revise "design drawings and specification" to read "design drawings and specifications";
■ b. In paragraph (b)(11)(ii)(B), revise "with 200 feet" to read "within 200 feet";
■ c. In paragraph (b)(19)(iii), revise "intermittant" to read "intermittent";
■ d. In paragraph (b)(21), revise "uner" to read "under".

§ 270.17 [Amended]

■ 193. In § 270.17, amend paragraph (f) by revising "detailed-plans" to read "detailed plans".

§ 270.18 [Amended]

■ 194. In § 270.18, amend paragraph (b) by revising the citation "§ 264.90(2)" to read "§ 264.90(b)(2)"; and amend paragraph (g) by revising "place" to read "placed".

§ 270.20 [Amended]

■ 195. In § 270.20, amend paragraph (i)(2) by revising "attentuative" to read "attenuative".

§ 270.26 [Amended]

■ 196.–197. In § 270.26, amend paragraph (c)(15) by revising "through(f) § 264.573" to read "through (f) of § 264.573".

§ 270.33 [Amended]

■ 198. In § 270.33, amend paragraph (b) introductory text by revising "An RCRA permit" to read "A RCRA permit".

§ 270.41 [Amended]

■ 199. In § 270.41, amend paragraph (c) by revising "environmental" to read "environment".

§ 270.42 [Amended]

■ 200. In § 270.42, amend paragraph (d)(2)(i) by revising "do no" to read "do not".

Appendix I to § 270.42—[Amended]

■ 201. Amend § 270.42 Appendix I as follows:
■ a. At item C.4, revise the modification class code (second column) "[1]2" to read "2";
■ b. At item C.6, revise the citation "264.98(j)" to read "264.98(h)";
■ c. At item C.7.a, revise the citation "264.98(h)(4)" to read "264.98(g)(4)";
■ d. At item C.7.b, revise the citation "264.99(k)" to read "264.99(j)";
■ e. At item C.8.a, revise the citation "264.99(i)(2)" to read "264.99(h)(2)";
■ f. At item F.2, amend by replacing the colon after "2" with a period;
■ g. At item F.4, revise "Storage of treatment" to read "Storage or treatment";
■ h. At item F.4.a., revise the modification class code "1" to read "[1]1";
■ i. At item G.1, amend by replacing the colon after "1" with a period;
■ j. At item H.6, revise the modification class code "*1" to read "[1]1";
■ k. At item J.7, revise the modification class code "*1" to read "[1]1";
■ l. At item L.9, revise "Changes Needed to meet Standards" to read "changes needed to meet standards".

§ 270.70 [Amended]

■ 202.–203. In § 270.70, amend paragraph (a) introductory text by revising "have an RCRA permit" to read "have a RCRA permit".

§ 270.72 [Amended]

■ 204. In § 270.72, amend paragraph (b)(2) by revising "inpoundments" to read "impoundments".

PART 271—REQUIREMENTS FOR AUTHORIZATION OF STATE HAZARDOUS WASTE PROGRAMS

■ 205. The authority citation for Part 271 continues to read as follows:

Authority: 42 U.S.C. 6905, 6912(a), and 6926.

§ 271.1 [Amended]

■ 206. Amend § 271.1 as follows:
■ a. In Table 1, at promulgation date of April 8, 1996, second column, revise "Wastesaters," to read "Wastewaters,"; and at promulgation date of July 15, 2002, second column, revise "Fertlizers" to read "Fertilizers";
■ b. In Table 2, at the fourteenth item under effective date of Nov. 8, 1984, second column, revise "enviromment" to read "environment"; and at effective date of Sept. 1, 1985, second column, revise "mininization" to read "minimization".

§ 271.21 [Amended]

■ 207. Amend § 271.21 as follows:
■ a. In paragraph (f), remove the phrase "speciflines";
■ b. In paragraph (g)(1)(i), revise "dils" to read "diligent efforts".

§ 271.23 [Amended]

■ 208. Amend § 271.23 as follows:
■ a. In paragraph (a)(1), revise "relevent" to read "relevant";
■ b. In paragraph (b)(1), revise "with drawal" to read "withdrawal";
■ c. In paragraph (b)(5), revise "makng" to read "making".

PART 273—STANDARDS FOR UNIVERSAL WASTE MANAGEMENT

■ 209. The authority citation for Part 273 continues to read as follows:

Authority: 42 U.S.C. 6922, 6923, 6924, 6925, 6930, and 6937.

§ 273.9 [Amended]

■ 210. In § 273.9, amend the definition of "*Universal Waste*" as follows:
■ a. Revise "hazardous waste" to read "hazardous wastes";
■ b. In paragraph (1), insert a semicolon after the citation "§ 273.2";
■ c. In paragraph (2), insert a semicolon after the citation "§ 273.3";

§ 273.13 [Amended]

■ 211. In § 273.13, amend paragraph (b) introductory text by revising "prevent releases" to read "prevents releases".

§ 273.14 [Amended]

■ 212. Amend § 273.14, in paragraph (a), by adding closing quotation marks after the phrase "Universal Waste—Battery(ies),".

§ 273.34 [Amended]

■ 213. In § 273.34, amend paragraph (a) by revising "clearly with the any one" to read "clearly with any one".

PART 279—STANDARDS FOR THE MANAGEMENT OF USED OIL

■ 214–215. The authority citation for Part 279 continues to read as follows:

Authority: Sections 1006, 2002(a), 3001 through 3007, 3010, 3014, and 7004 of the Solid Waste Disposal Act, as amended (42 U.S.C. 6905, 6912(a), 6921 through 6927, 6930, 6934, and 6974); and sections 101(37) and 114(c) of CERCLA (42 U.S.C. 9601(37) and 9614(c)).

§ 279.1 [Amended]

■ 216. In § 279.1, amend the definition of "Petroleum refining facility" by revising "kerosine" to read "kerosene".

§ 279.10 [Amended]

■ 217. In § 279.10, amend paragraph (b)(2) introductory text by revising "solely exhibits" to read "solely exhibit"; and by revising "hazardous waste characteristic" to read "hazardous waste characteristics".

§ 279.11 [Amended]

■ 218. Amend § 279.11 as follows:
■ a. In the first sentence, delete "in the specification"; and in the second sentence, revise "not to exceed any specification" to read "not to exceed any allowable level";
■ b. In Table 1, revise the title of the table to read "TABLE 1—USED OIL NOT EXCEEDING ANY ALLOWABLE LEVEL SHOWN BELOW IS NOT SUBJECT TO THIS PART WHEN BURNED FOR ENERGY RECOVERY[1]", and in the first footnote, revise "The specification does not" to read "The allowable levels do not".

§ 279.43 [Amended]

■ 219. Amend § 279.43 as follows:
■ a. In paragraph (c)(3)(i), insert a comma after the citation "49 CFR 171.15";
■ b. In paragraph (c)(5), revise "used oil discharged" to read "used oil discharge".

§ 279.44 [Amended]

■ 220. Amend § 279.44 as follows:
■ a. In paragraph (a), revise "being transporter" to read "being transported";
■ b. In paragraph (c)(2), revise "if the CFC are" to read "if the CFCs are".

§ 279.45 [Amended]

■ 221. Amend § 279.45 in paragraph (a) by revising "subpart F of this chapter" to read "subpart F of this part".

§ 279.52 [Amended]

■ 222. Amend § 279.52 as follows:
■ a. In paragraphs (a) and (b), revise "processors and re-refiners" to read "processing and re-refining" in both instances;
■ b. In paragraph (b)(1)(ii), revise "release or used oil" to read "release of used oil";
■ c. In paragraph (b)(6)(ii), revise "a real extent" to read "areal extent"; revise "facility records of manifests" to read "facility records or manifests"; and revise "analysts" to read "analyses";
■ d. In paragraph (b)(6)(iii), revise "from water of chemical" to read "from water or chemical".

§ 279.55 [Amended]

■ 223. Amend § 279.55 as follows:
■ a. In paragraph (a) introductory text, revise "At at minimum" to read "At a minimum";
■ b. In paragraph (b)(2)(i)(B), revise the citation "§ 260.20 and 260.21" to read "§§ 260.20 and 260.21".

§ 279.56 [Amended]

■ 224. Amend § 279.56 in paragraph (a)(2), by revising "processor/re-refining" to read "processor/re-refiner".

§ 279.57 [Amended]

■ 225. In § 279.57, amend paragraph (a)(2)(ii) by revising "an specified" to read "as specified".

§ 279.59 [Amended]

■ 226. Amend § 279.59 by revising "or re-fining of" to read "or re-refining of".

§ 279.63 [Amended]

■ 227. In § 279.63, amend paragraph (b)(3) by revising "processor/refiner" to read "processor/re-refiner".

§ 279.64 [Amended]

■ 228. In § 279.64, amend paragraph (e) heading by revising the word "existing" to read "new".

§ 279.70 [Amended]

■ 229. In § 279.70, amend paragraph (b)(1) by revising the word "incidently" to read "incidentally".

[FR Doc. 06–5601 Filed 7–13–06; 8:45 am]
BILLING CODE 6560–50–P

Federal Register

Friday,
July 14, 2006

Part IV

Department of Defense

Office of the Secretary

32 CFR Part 310
Department of Defense Privacy Program; Proposed Rule

DEPARTMENT OF DEFENSE

Office of the Secretary

32 CFR Part 310

[DoD–OS–2006–129]

RIN 0790–AH98

Department of Defense Privacy Program

AGENCY: Department of Defense.

ACTION: Proposed rule.

SUMMARY: The Department of Defense is updating policies and responsibilities for the Defense Privacy Program which implements the Privacy Act of 1974.

DATES: Comments must be received on or before September 12, 2006 to be considered by this agency.

ADDRESSES: You may submit comments, identified by docket number and or RIN number and title, by any of the following methods:

- Federal eRulemaking Portal: *http://www.regulations.gov*. Follow the instructions for submitting comments.
- Mail: Federal Docket Management System Office, 1160 Defense Pentagon, Washington, DC 20301–1160.

Instructions: All submissions received must include the agency name and docket number or Regulatory Information Number (RIN) for this **Federal Register** document. The general policy for comments and other submissions from members of the public is to make these submissions available for public viewing on the Internet at *http://regulations.gov* as they are received without change, including any personal identifiers or contact information.

FOR FURTHER INFORMATION CONTACT: Mr. Vahan Moushegian, Jr., at (703) 607–2943.

SUPPLEMENTARY INFORMATION:

Executive Order (E.O.) 12866, "Regulatory Planning and Review"

It has been determined that 32 CFR part 310 is not a significant regulatory action. The rule does not (1) Have an annual effect on the economy of $100 million or more or adversely affect in a material way the economy; a sector of the economy; productivity; competition; jobs; the environment; public health or safety; or State, local, or tribal governments or communities; (2) Create a serious inconsistency or otherwise interfere with an action taken or planned by another Agency; (3) Materially alter the budgetary impact of entitlements, grants, user fees, or loan programs, or the rights and obligations of recipients thereof; or (4) Raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in this Executive order.

Public Law 96–354, "Regulatory Flexibility Act" (5 U.S.C. Chapter 6)

It has been determined that this rule is not subject to the Regulatory Flexibility Act because it would not, if promulgated, have a significant economic impact on a substantial number of small entities because it is only concerned with the administration of Privacy Program within the Department of Defense.

Public Law 96–511, "Paperwork Reduction Act" (44 U.S.C. Chapter 35)

It has been determined that this rule does not impose information requirements beyond the Department of Defense and that the information collected within the Department of Defense is necessary and consistent with 5 U.S.C. 552a, known as the Privacy Act of 1974. However, one favorable comment was forwarded to the Office of Management and Budget during the 30-day review period (71 FR 29319).

Section 202, Public Law 104–4, "Unfunded Mandates Reform Act"

It has been determined that the rule does not involve a Federal mandate that may result in the expenditure by State, local and tribal governments, in the aggregate, or by the private sector, of $100 million or more in any one year.

Executive Order 13132, "Federalism"

It has been determined that this rule does not have federalism implications. The rule does not have substantial direct effects on the States, the relationship between the National Government and the States, or on the distribution of power and responsibilities among the various levels of government.

List of Subjects in 32 CFR Part 310

DoD privacy program.

Accordingly, 32 CFR part 310 is proposed to be revised as follows.

PART 310—DOD PRIVACY PROGRAM

Subpart A—DoD Policy

Subpart B—Systems of Records

Subpart C—Collecting Personal Information

Subpart D—Access by Individuals

Subpart E—Disclosure of Personal Information to Other Agencies and Third Parties

Subpart F—Exemptions

Subpart G—Publication Requirements

Subpart H—Training Requirements

Subpart I—Reports

Subpart J—Inspections

Subpart K—Privacy Act Violations

Subpart L—Computer Matching Program Procedures

Authority: Pub. L. 93–579, 88 Stat. 1896 (5 U.S.C. 552a)

Subpart A—DoD Policy

§ 310.1 Reissuance.

This part is revised to consolidate into a single document (32 CFR part 310) Department of Defense (DoD) policies and procedures for implementing the Privacy Act of 1974, as amended (5 U.S.C. 552a) by authorizing the development, publication and maintenance of the DoD Privacy Program set forth by DoD Directive 5400.11[1] and 5400.11–R,[2] both entitled: "DoD Privacy Program."

§ 310.2 Purpose.

This part:

(a) Updates policies and responsibilities of the DoD Privacy Program under 5 U.S.C. 552a and OMB Circular A–130.

(b) Authorizes the Defense Privacy Board, the Defense Privacy Board Legal Committee, and the Defense Data Integrity Board.

(c) Continues to authorize the publication of DoD 5400.11–R.

(d) Continues to delegate authorities and responsibilities for the effective administration of the DoD Privacy Program.

§ 310.3 Applicability and Scope.

This part:

(a) Applies to the Office of the Secretary of Defense (OSD), the Military Departments, the Chairman of the Joint Chiefs of Staff, the Combatant Commands, the Office of the Inspector General of the Department of Defense (IG, DoD), the Defense Agencies, the DoD Field Activities, and all other organizational entities in the Department of Defense (hereinafter referred to collectively as "the DoD Components").

(b) Shall be made applicable to DoD contractors who are operating a system of records on behalf of a DoD Component, to include any of the activities, such as collecting and disseminating records, associated with maintaining a system of records.

(c) This part does not apply to:

(1) Requests for information made under the Freedom of Information Act. They are processed in accordance with DoD 5400.7–R.[3]

(2) Requests for information from systems of records controlled by the Office of Personnel Management (OPM), although maintained by a DoD Component. These are processed in accordance with policies established by OPM "Privacy Procedures for Personnel Records" (5 CFR 297).

(3) Requests for personal information from the General Accounting Office. These are processed in accordance with DoD Directive 7650.1.[4]

(4) Requests for personal information from Congress. These are processed in accordance with DoD Directive 5400.4 except those specific provisions in Subpart E-Disclosure of Personal Information to Other Agencies and Third Parties.

§ 310.4. Definitions.

(a) *Access.* The review of a record or a copy of a record or parts thereof in a system of records by any individual.

(b) *Agency.* For the purposes of disclosing records subject to the Privacy Act among the DoD Components, the Department of Defense is a considered a single agency. For all other purposes to include requests for access and amendment, denial of access or amendment, appeals from denials, and record keeping as relating to release of records to non-DoD Agencies, each DoD Component is considered an agency within the meaning of the Privacy Act.

(c) *Computer Matching Program.* The computerized comparison of two or more automated systems of records or a system of records with non-Federal records. Manual comparison of systems of records or a system of records with non-Federal records are not covered.

(d) *Confidential source.* A person or organization who has furnished information to the Federal Government under an express promise, if made on or after September 27, 1975, that the person's or the organization's identity shall be held in confidence or under an implied promise of such confidentiality if this implied promise was made on or before September 26, 1975.

(e) *Disclosure.* The transfer of any personal information from a system of records by any means of communication (such as oral, written, electronic, mechanical, or actual review) to any person, private entity, or Government Agency, other than the subject of the record, the subject's designated agent or the subject's legal guardian.

(f) *Federal benefit program.* A program administered or funded by the Federal Government, or by any agent or State on behalf of the Federal Government, providing cash or in-kind assistance in the form of payments, grants, loans, or loan guarantees to individuals.

(g) *Federal personnel.* Officers and employees of the Government of the United States, members of the uniformed services (including members of the Reserve Components), individuals entitled to receive immediate or deferred retirement benefits under any retirement program of the United States (including survivor benefits).

(h) *Individual.* A living person who is a citizen of the United States or an alien lawfully admitted for permanent residence. The parent of a minor or the legal guardian of any individual also may act on behalf of an individual. Members of the United States Armed Forces are "individuals." Corporations, partnerships, sole proprietorships, professional groups, businesses, whether incorporated or unincorporated, and other commercial entities are not "individuals" when acting in an entrepreneurial capacity with the Department of Defense but are "individuals" otherwise (*e.g.*, security clearances, entitlement to DoD privileges or benefits, etc.).

(i) *Individual access.* Access to information pertaining to the individual by the individual or his or her designated agent or legal guardian.

(j) *Lost, stolen, or compromised information.* Actual or possible disclosure of personal information either to known or unknown persons whether or not a potential exists that the information may be used for unlawful purposes to the detriment of the individual.

(k) *Maintain.* To maintain, collect, use, or disseminate records contained in a system of records.

(l) *Non-Federal agency.* Any state or local government, or agency thereof, which receives records contained in a system of records from a source agency for use in a computer matching program.

[1] Copies may be obtained at *http://www.dtic.mil/whs/directives.*

[2] See footnote 1 to § 310.1.

[3] See footnote 1 to § 310.3 (c)(1).

[4] See footnote 1 to § 310.3 (c)(1).

(m) *Official use.* Within the context of this part, this term is used when officials and employees of a DoD Component have a demonstrated a need for the record or the information contained therein in the performance of their official duties, subject to DoD 5200.1–R.[5]

(n) *Personal information.* Information about an individual that identifies, relates, or unique to, or describes him or her, *e.g.*, a social security number; age; military rank; civilian grade; marital status; race; salary; home/office phone numbers; other demographic, personnel, medical, and financial information; etc.

(o) *Privacy Act request.* A request from an individual for notification as to the existence of, access to, or amendment of records pertaining to that individual. These records must be maintained in a system of records.

(p) *Member of the public.* Any individual or party acting in a private capacity to include Federal employees or military personnel.

(q) *Recipient agency.* Any agency, or contractor thereof, receiving records contained in a system of records from a source agency for use in a computer matching program.

(r) *Record.* Any item, collection, or grouping of information, whatever the storage media (*e.g.*, paper, electronic, etc.), about an individual that is maintained by a DoD Component, including, but not limited to, his or her education, financial transactions, medical history, criminal or employment history, and that contains his or her name, or the identifying number, symbol, or other identifying particular assigned to the individual, such as a finger or voice print or a photograph.

(s) *Risk assessment.* An analysis considering information sensitivity, vulnerabilities, and cost in safeguarding personal information processed or stored in the facility or activity.

(t) *Routine use.* The disclosure of a record outside the Department of Defense for a use that is compatible with the purpose for which the information was collected and maintained by the Department of Defense. The routine use must be included in the published system notice for the system of records involved.

(u) *Source agency.* Any agency which discloses records contained in a system of records to be used in a computer matching program, or any state or local government, or agency thereof, which discloses records to be used in a computer matching program.

[5] 5 See footnote 1 to § 310.1.

(v) *Statistical record.* A record maintained only for statistical research or reporting purposes and not used in whole or in part in making determinations about specific individuals.

(w) *System of records.* A group of records under the control of a DoD Component from which personal information about an individual is retrieved by the name of the individual or by some other identifying number, symbol, or other identifying particular assigned, that is unique to the individual.

§ 310.5 Policy.

It is DoD policy that:

(a) The privacy of an individual is a personal and fundamental right that shall be respected and protected.

(1) The Department's need to collect, maintain, use, or disseminate personal information about individuals for purposes of discharging its statutory responsibilities shall be balanced against the right of the individual to be protected against unwarranted invasions of their privacy.

(2) The legal rights of individuals, as guaranteed by Federal law, regulation, and policy, shall be protected when collecting, maintaining, using, or disseminating personal information about individuals.

(3) DoD personnel, including contractors, have an affirmative responsibility to protect an individual's privacy when collecting, maintaining, using, or disseminating personal information about an individual.

(4) Departmental legislative, regulatory, or other policy proposals shall be evaluated to ensure that privacy implications, including those relating to the collection, maintenance, use, or dissemination of personal information, are assessed, to include, when required and consistent with the Privacy Provision of the E-Government Act of 2002 (44 U.S.C. 3501, Note), the preparation of a Privacy Impact Assessment.

(b) Personal information shall be collected, maintained, used, or disclosed to ensure that:

(1) It shall be relevant and necessary to accomplish a lawful DoD purpose required to be accomplished by statute or Executive order.

(2) It shall be collected to the greatest extent practicable directly from the individual.

(3) The individual shall be informed as to why the information is being collected, the authority for collection, what uses will be made of it, whether disclosure is mandatory or voluntary, and the consequences of not providing that information.

(4) It shall be relevant, timely, complete, and accurate for its intended use; and

(5) Appropriate administrative, technical, and physical safeguards shall be established, based on the media (*e.g.*, paper, electronic, etc.) involved, to ensure the security of the records and to prevent compromise or misuse during storage or transfer.

(c) No record shall be maintained on how an individual exercises rights guaranteed by the First Amendment to the Constitution, except as follows:

(1) Specifically authorized by statute.

(2) Expressly authorized by the individual on whom the record is maintained; or

(3) When the record is pertinent to and within the scope of an authorized law enforcement activity.

(d) Notices shall be published in the **Federal Register** and reports shall be submitted to Congress and the Office of Management and Budget, in accordance with, and as required by, 5 U.S.C. 552a, OMB Circular A–130, and DoD 5400.11–R, as to the existence and character of any system of records being established or revised by the DoD Components. Information shall not be collected, maintained, used, or disseminated until the required publication and review requirements, as set forth in 5 U.S.C. 552a, OMB Circular A–130, and DoD 5400.11–R, are satisfied.

(e) Individuals shall be permitted, to the extent authorized by 5 U.S.C. 552a and DoD 5400.11–R, to:

(1) Determine what records pertaining to them are contained in a system of records.

(2) Gain access to such records and obtain a copy of those records or a part thereof.

(3) Correct or amend such records once it has been determined that the records are not accurate, relevant, timely, or complete.

(4) Appeal a denial of access or a request for amendment.

(f) Disclosure of records pertaining to an individual from a system of records shall be prohibited except with the consent of the individual or as otherwise authorized by 5 U.S.C. 552a, DoD 5400.11–R, and DoD 5400.7–R. When disclosures are made, the individual shall be permitted, to the extent authorized by references 5 U.S.C. 552a and/or DoD 5400.11–R, to seek an accounting of such disclosures from the DoD Component making the release.

(g) Disclosure of records pertaining to personnel of the National Security Agency, the Defense Intelligence Agency; the National Reconnaissance

Office, and the National Geospatial-Intelligence Agency shall be prohibited to the extent authorized by Public Law 86–36 (1959) and 10 U.S.C. 424. Disclosure of records pertaining to personnel of overseas, sensitive, or routinely deployable units shall be prohibited to the extent authorized by 10 U.S.C. 130b. Disclosure of medical records is prohibited except as authorized by DoD 6025.18–R. [6]

(h) Computer matching programs between the DoD Components and the Federal, State, or local governmental agencies shall be conducted in accordance with the requirements of 5 U.S.C. 552a, OMB Circular A–130, and DoD 5400.11–R.

(i) DoD personnel and system managers shall conduct themselves consistent with established rules of conduct 310.8 so that personal information to be stored in a system of records only shall be collected, maintained, used, and disseminated as is authorized by this part, 5 U.S.C. 552a and DoD 5400.11–R.

(j) DoD personnel, including but not limited to family members, retirees, contractor employees, and volunteers, shall be notified, consistent with the requirements of DoD 5400.11–R, if their personal information, whether or not included in a system of records, is lost, stolen, or compromised.

(k) DoD Field Activities shall receive Privacy Program support from the Director, Washington Headquarters Services.

§ 310.6 Responsibilities.

(a) The Director of Administration and Management, Office of the Secretary of Defense, shall:

(1) Serve as the Senior Privacy Official for the Department of Defense.

(2) Provide policy guidance for, and coordinate and oversee administration of, the DoD Privacy Program to ensure compliance with policies and procedures in 5 U.S.C. 552a and OMB Circular A–130.

(3) Publish DoD 5400.11–R and other guidance, including Defense Privacy Board Advisory Opinions, to ensure timely and uniform implementation of the DoD Privacy Program.

(4) Serve as the Chair to the Defense Privacy Board and the Defense Data Integrity Board (see § 310.9).

(5) Supervise and oversee the activities of the Defense Privacy Office (see § 310.9).

(b) The Director, WHS, under the DA&M, shall provide Privacy Program support for DoD Field Activities.

(c) The General Counsel of the Department of Defense shall:

(1) Provide advice and assistance on all legal matters arising out of, or incident to, the administration of the DoD Privacy Program.

(2) Review and be the final approval authority on all advisory opinions issued by the Defense Privacy Board or the Defense Privacy Board Legal Committee.

(3) Serve as a member of the Defense Privacy Board, the Defense Data Integrity Board, and the Defense Privacy Board Legal Committee (310.9).

(d) The Secretaries of the Military Departments and the Heads of the Other DoD Components, except as noted in § 310.5(k), shall:

(1) Provide adequate funding and personnel to establish and support an effective DoD Privacy Program, to include the appointment of a senior official to serve as the principal point of contact (POC) for DoD Privacy Program matters.

(2) Establish procedures, as well as rules of conduct, necessary to implement this part and DoD 5400.11–R to ensure compliance with the requirements of 5 U.S.C. 552a and OMB Circular A–130.

(3) Conduct training, consistent with the requirements of DoD 5400.11–R, on the provisions of this part, 5 U.S.C. 552a, OMB Circular A–130, and DoD 5400.11–R, for assigned, employed and detailed, to include contractor, personnel and for those individuals having primary responsibility for implementing the DoD Privacy Program.

(4) Ensure all Component legislative proposals, policies, or programs having privacy implications, such as the DoD Privacy Impact Assessment Program, are evaluated for consistency with the information privacy principles of this part and DoD 5400.11–R.

(5) Assess the impact of technology on the privacy of personal information and, when feasible, adopt privacy enhancing technology both to preserve and protect personal information contained in Component systems of records and to permit auditing of compliance with the requirements of this part and DoD 5400.11–R.

(6) Ensure the DoD Privacy Program periodically shall be reviewed by the Inspectors General or other officials, who shall have specialized knowledge of the DoD Privacy Program.

(7) Submit reports, consistent with the requirements of DoD 5400.11–R, as mandated by 5 U.S.C. 552a and OMB Circular A–130 and as otherwise directed by the DPO.

(e) The Secretaries of the Military Departments shall provide support to the Combatant Commands, as identified in DoD Directive 5100.3, [7] in the administration of the DoD Privacy Program.

§ 310.7 Information requirements.

The reporting requirements in § 310.6(d)(7) are assigned Report Control Symbol DD–DA&M(A)1379.

§ 310.8 Rules of conduct.

(a) DoD personnel shall:

(1) Take such actions, as considered appropriate, to ensure personal information contained in a system of records, to which they have access to or are using incident to the conduct of official business, shall be protected so that the security and confidentiality of the information shall be preserved.

(2) Not disclose any personal information contained in any system of records except as authorized by DoD 5400.11–R or other applicable law or regulation. Personnel willfully making such a disclosure when knowing that disclosure is prohibited are subject to possible criminal penalties and/or administrative sanctions.

(3) Report any unauthorized disclosures of personal information from a system of records or the maintenance of any system of records that are not authorized by this part to the applicable Privacy POC for his or her DoD Component.

(b) DoD System Managers for each system of records shall:

(1) Ensure that all personnel who either shall have access to the system of records or who shall develop or supervise procedures for handling records in the system of records shall be aware of their responsibilities for protecting personal information being collected and maintained under the DoD Privacy Program.

(2) Prepare promptly any required new, amended, or altered system notices for the system of records and submit them through their DoD Component Privacy POC to the DPO for publication in the **Federal Register**.

(3) Not maintain any official files on individuals, which are retrieved by name or other personal identifier without first ensuring that a notice for the system of records shall have been published in the **Federal Register**. Any official who willfully maintains a system of records without meeting the publication requirements, as prescribed by 5 U.S.C. 552a, OMB Circular A–130, and DoD 5400.11–R, is subject to possible criminal penalties and/or administrative sanctions.

[6] See footnote 1 to § 310.1.

[7] See footnote 1 to § 310.1.

§ 310.9 Privacy boards and office, composition and responsibilities.

(a) *The Defense Privacy Board*—(1) *Membership.* The Board shall consist of the DA&M, OSD, who shall serve as the Chair; the Director of the DPO, DA&M, who shall serve as the Executive Secretary and as a member; the representatives designated by the Secretaries of the Military Departments; and the following officials or their designees: the Deputy Under Secretary of Defense for Program Integration (DUSD(PI)); the Assistant Secretary of Defense for Health Affairs; the Assistant Secretary of Defense for Networks and Information Integration (ASD(NII)/Chief Information Officer (CIO); the Director, Executive Services and Communications Directorate, WHS; the GC, DoD; and the Director for Information Technology Management Directorate (ITMD), WHS. The designees also may be the principal POC for the DoD Component for privacy matters.

(2) *Responsibilities.* (i) The Board shall have oversight responsibility for implementation of the DoD Privacy Program. It shall ensure the policies, practices, and procedures of that Program are premised on the requirements of 5 U.S.C. 552a and OMB Circular A–130, as well as other pertinent authority, and the Privacy Programs of the DoD Component are consistent with, and in furtherance of, the DoD Privacy Program.

(ii) The Board shall serve as the primary DoD policy forum for matters involving the DoD Privacy Program, meeting as necessary, to address issues of common concern so as to ensure uniform and consistent policy shall be adopted and followed by the DoD Components. The Board shall issue advisory opinions as necessary on the DoD Privacy Program so as to promote uniform and consistent application of 5 U.S.C. 552a, OMB Circular A–130, and DoD 5400.11–R.

(iii) Perform such other duties as determined by the Chair or the Board.

(b) *The Defense Data Integrity Board*—(1) *Membership.* The Board shall consist of the DA&M, OSD, who shall serve as the Chair; the Director of the DPO, DA&M, who shall serve as the Executive Secretary; and the following officials or their designees: the representatives designated by the Secretaries of the Military Departments; the DUSD(PI); the ASD(NII)/CIO; the GC, DoD; the Inspector General, DoD; the ITMD, WHS; and the Director, Defense Manpower Data Center. The designees also may be the principal points of contact for the DoD Component for privacy matters.

(2) *Responsibilities.* (i) The Board shall oversee and coordinate, consistent with the requirements of 5 U.S.C. 552a, OMB Circular A–130, and DoD 5400.11–R, all computer matching programs involving personal records contained in system of records maintained by the DoD Components.

(ii) The Board shall review and approve all computer matching agreements between the Department of Defense and the other Federal, State or local governmental agencies, as well as memoranda of understanding when the match is internal to the Department of Defense, to ensure, under 5 U.S.C. 552a, OMB Circular A–130, and DoD 5400.11–R, appropriate procedural and due process requirements shall have been established before engaging in computer matching activities.

(c) *The Defense Privacy Board Legal Committee*—(1) *Membership.* The Committee shall consist of the Director, DPO, DA&M, who shall serve as the Chair and the Executive Secretary; the GC, DoD, or designee; and civilian and/or military counsel from each of the DoD Components. The General Counsels (GCs) and The Judge Advocates General of the Military Departments shall determine who shall provide representation for their respective Department to the Committee. This does not preclude representation from each office. The GCs of the other DoD Components shall provide legal representation to the Committee. Other DoD civilian or military counsel may be appointed by the Executive Secretary, after coordination with the DoD Component concerned, to serve on the Committee on those occasions when specialized knowledge or expertise shall be required.

(2) *Responsibilities.* (i) Committee shall serve as the primary legal forum for addressing and resolving all legal issues arising out of or incident to the operation of the DoD Privacy Program.

(ii) Committee shall consider legal questions regarding the applicability of 5 U.S.C. 552a, OMB Circular A–130, and DoD 5400.11–R and questions arising out of or as a result of other statutory and regulatory authority, to include the impact of judicial decisions, on the DoD Privacy Program. The Committee shall provide advisory opinions to the Defense Privacy Board and, on request, to the DoD Components.

(d) *The DPO*—(1) *Membership.* It shall consist of a Director and a staff. The Director also shall serve as the Executive Secretary and a member of the Defense Privacy Board; as the Executive Secretary to the Defense Data Integrity Board; and as the Chair and the Executive Secretary to the Defense Privacy Board Legal Committee.

(2) *Responsibilities.* (i) Manage activities in support of the Privacy Program oversight responsibilities of the DA&M.

(ii) Provide operational and administrative support to the Defense Privacy Board, the Defense Data Integrity Board, and the Defense Privacy Board Legal Committee.

(iii) Direct the day-to-day activities of the DoD Privacy Program.

(iv) Provide guidance and assistance to the DoD Components in their implementation and execution of the DoD Privacy Program.

(v) Review DoD legislative, regulatory, and other policy proposals which implicate information privacy issues relating to the Department's collection, maintenance, use, or dissemination of personal information, to include any testimony and comments having such implications under DoD Directive 5500.1.

(vi) Review proposed new, altered, and amended systems of records, to include submission of required notices for publication in the **Federal Register** and, when required, providing advance notification to the OMB and the Congress, consistent with 5 U.S.C. 552a, OMB Circular A–130, and DoD 5400.11–R.

(vii) Review proposed DoD Component privacy rulemaking, to include submission of the rule to the Office of the Federal Register for publication and providing to the OMB and the Congress reports, consistent with 5 U.S.C. 552a, OMB Circular A–130, and DoD 5400.11–R.

(viii) Develop, coordinate, and maintain all DoD computer matching agreements, to include submission of required match notices for publication in the **Federal Register** and advance notification to the OMB and the Congress of the proposed matches, consistent with 5 U.S.C. 552a, OMB Circular A–130, and DoD 5400.11–R.

(ix) Provide advice and support to the DoD Components to ensure:

(A) All information requirements developed to collect or maintain personal data conform to DoD Privacy Program standards;

(B) Appropriate procedures and safeguards shall be developed, implemented, and maintained to protect personal information when it is stored in either a manual and/or automated system of records or transferred by electronic or non-electronic means; and

(C) Specific procedures and safeguards shall be developed and implemented when personal data is

collected and maintained for research purposes.

(x) Serve as the principal POC for coordination of privacy and related matters with the OMB and other Federal, State, and local governmental agencies.

(xi) Compile and submit the "Biennial Matching Activity Report" to the OMB as required by references OMB Circular A–130 and DoD 5400.11–R, and such other reports as may be required.

(xii) Update and maintain this part and DoD 5400.11–R.

Subpart B—Systems of Records

§ 310.10 General.

(a) *System of Records.* To be subject to the provisions of this part, a "system of records" must:

(1) Consist of "records" that are retrieved by the name of an individual or some other personal identifier; and

(2) Be under the control of a DoD Component.

(b) *Retrieval practices.* (1) Records in a group of records that *may* be retrieved by a name or personal identifier are not covered by this part even if the records contain personal data and are under control of a DoD Component. The records *must* be retrieved by name or other personal identifier to become a system of records for the purpose of this part.

(i) When records are contained in an automated (Information Technology) system capable of being manipulated to retrieve information about an individual, this does not automatically transform the system into a system of records as defined in this part.

(ii) In determining whether an automated system is a system of records that is subject to this part, retrieval policies and practices shall be evaluated. If DoD Component policy is to retrieve personal information by the name or other unique personal identifier, it is a system of records. If DoD Component policy prohibits retrieval by name or other identifier, but the actual practice of the Component is to retrieve information by name or identifier, even if done infrequently, it is a system of records.

(2) If records are retrieved by name or personal identifier, a system notice must be submitted in accordance with § 310.33.

(3) If records are not retrieved by name or personal identifier are rearranged in such manner that they are retrieved by name or personal identifier, a new systems notice must be submitted in accordance with § 310.33.

(4) If records in a system of records are rearranged so that retrieval is no longer by name or other personal identifier, the records are no longer subject to this part and the system notice for the records shall be deleted in accordance with § 310.34.

(c) *Relevance and necessity.* Information or records about an individual shall only be maintained in a system of records that is relevant and necessary to accomplish a DoD Component purpose required by a Federal statute or an Executive Order.

(d) *Authority to establish systems of records.* Identify the specific statute or the Executive Order that authorizes maintaining personal information in each system of records. The existence of a statute or Executive Order mandating the maintenance of a system of records does not abrogate the responsibility to ensure the information in the system of records is relevant and necessary. If a statute or Executive Order does not expressly direct the creation of a system of records, but the establishment of a system of records is necessary in order to discharge the requirements of the statute or Executive Order, the statute or Executive Order shall be cited as authority.

(e) *Exercise of First Amendment rights.* (1) Do not maintain any records describing how an individual exercises his or her rights guaranteed by the First Amendment of the U.S. Constitution except when:

(i) Expressly authorized by Federal statute;

(ii) Expressly authorized by the individual; or

(iii) Maintenance of the information is pertinent to and within the scope of an authorized law enforcement activity.

(2) First Amendment rights include, but are not limited to, freedom of religion, freedom of political beliefs, freedom of speech, freedom of the press, the right to assemble, and the right to petition.

(f) *System Manager's evaluation.* (1) Evaluate the information to be included in each new system before establishing the system and evaluate periodically the information contained in each existing system of records for relevancy and necessity. Such a review shall also occur when a system notice alteration or amendment is prepared (see § 310.33 and § 310.34).

(2) Consider the following:

(i) The relationship of each item of information retained and collected to the purpose for which the system is maintained;

(ii) The specific impact on the purpose or mission of not collecting each category of information contained in the system;

(iii) The possibility of meeting the informational requirements through use of information not individually identifiable or through other techniques, such as sampling;

(iv) The length of time each item of personal information must be retained;

(v) The cost of maintaining the information; and

(vi) The necessity and relevancy of the information to the purpose for which it was collected.

(g) *Discontinued information requirements.* (1) Stop collecting immediately any category or item of personal information for which retention is no longer justified. Also delete this information from existing records, when feasible.

(2) Do not destroy any records that must be retained in accordance with disposal authorizations established under 44 U.S.C. 3303a, Examination by Archivist of Lists and Schedules of Records Lacking Preservation Value; Disposal of Records."

§ 310.11 Standards of accuracy.

(a) *Accuracy of information maintained.* Maintain all personal information used or may be used to make any determination about an individual with such accuracy, relevance, timeliness, and completeness as is reasonably necessary to ensure fairness to the individual in making any such determination.

(b) *Accuracy determinations before dissemination.* Before disseminating any personal information from a system of records to any person outside the Department of Defense, other than a Federal Agency, make reasonable efforts to ensure the information to be disclosed is accurate, relevant, timely, and complete for the purpose it is being maintained (see § 310.21(d)).

§ 310.12 Government contractors.

(a) *Applicability to government contractors.* (1) When a DoD Component contract requires the operation or maintenance of a system of records or a portion of a system of records or requires the performance of any activities associated with maintaining a system of records, including the collection, use, and dissemination of records, the record system or the portion of the record system affected are considered to be maintained by the DoD Component and are subject to this part. The Component is responsible for applying the requirements of this part to the contractor. The contractor and its employees are to be considered employees of the DoD Component for purposes of the criminal provisions of 5 U.S.C 552a(i) during the performance of

the contract. Consistent with the Federal Acquisition Regulation (FAR), Part 24.1, contracts requiring the maintenance or operation of a system of records or the portion of a system of records shall include in the solicitation and resulting contract such terms as are prescribed by the FAR.

(2) If the contractor must use, have access to, or disseminate individually identifiable information subject to this part for performing any part of a contract, and the information would have been collected, maintained, used, or disseminated by the DoD Component but for the award of the contract, these contractor activities are subject to this part.

(3) The restriction in paragraphs (a)(1) and (2) of this section do not apply to records:

(i) Established and maintained to assist in making internal contractor management decisions, such as records maintained by the contractor for use in managing the contract;

(ii) Maintained as internal contractor employee records even when used in conjunction with providing goods and services to the Department of Defense; or

(iii) Maintained as training records by an educational organization contracted by a DoD Component to provide training when the records of the contract students are similar to and commingled with training records of other students (for example, admission forms, transcripts, academic counseling and similar records).

(iv) Maintained by a consumer reporting agency to which records have been disclosed under contract in accordance with the Federal Claims Collection Act of 1966, 31 U.S.C. 3711(e).

(v) Maintained by the contractor incident to normal business practices and operations.

(4) The DoD Components shall publish instructions that:

(i) Furnish DoD Privacy Program guidance to their personnel who solicit, award, or administer Government contracts;

(ii) Inform prospective contractors of their responsibilities, and provide training as appropriate, regarding the DoD Privacy Program; and

(iii) Establish an internal system of contractor performance review to ensure compliance with the DoD Privacy Program.

(b) *Contracting procedures.* The Defense Acquisition Regulations Council shall develop the specific policies and procedures to be followed when soliciting bids, awarding contracts or administering contracts that are subject to this part.

(c) *Contractor compliance.* Through the various contract surveillance programs, ensure contractors comply with the procedures established in accordance with § 310.12(b).

(d) *Disclosure of records to contractors.* Disclosure of records contained in a system of records by a DoD Component to a contractor for use in the performance of a DoD contract is considered a disclosure within the Department of Defense (see § 310.21(b)). The contractor is considered the agent of the contracting DoD Component and to be maintaining and receiving the records for that Component.

§ 310.13 Safeguarding personal information.

(a) *General responsibilities.* Establish appropriate administrative, technical and physical safeguards to ensure the records in each system of records are protected from unauthorized access, alteration, or disclosure and their confidentiality is preserved and protected. Records shall be protected against reasonably anticipated threats or hazards that could result in substantial harm, embarrassment, inconvenience, or unfairness to any individual about whom information is kept.

(b) *Minimum standards.* (1) Tailor system safeguards to conform to the type of records in the system, the sensitivity of the personal information stored, the storage medium used and, to a degree, the number of records maintained.

(2) Treat all unclassified records that contain personal information that normally would be withheld from the public under Freedom of Information Exemption Numbers 6 and 7 of 286.12, subpart C of 32 CFR part 286 ("DoD Freedom of Information Act Program") as "For Official Use Only," and safeguard them in accordance with reference DoD 5200.1–R even if they are not actually marked "For Official Use Only."

(3) Personal information that does not meet the criteria discussed in paragraph (b)(2) of this section shall be accorded protection commensurate with the nature and type of information involved.

(4) Special administrative, physical, and technical procedures are required to protect data that is stored or processed in an information technology system to protect against threats unique to an automated environment (see Appendix A).

(5) Tailor safeguards specifically to the vulnerabilities of the system.

(c) *Records disposal.* (1) Dispose of records containing personal data so as to prevent inadvertent compromise. Disposal methods such as tearing, burning, melting, chemical decomposition, pulping, pulverizing, shredding, or mutilation are considered adequate if the personal data is rendered unrecognizable or beyond reconstruction.

(2) The transfer of large quantities of records containing personal data in bulk to a disposal activity, such as the Defense Property Disposal Office, is not a release of personal information under this part. The sheer volume of such transfers make it difficult or impossible to identify readily specific individual records (see paragraph (c)(3) of this section).

(3) When disposing of or destroying large quantities of records containing personal information, care must be exercised to ensure the bulk of the records are maintained so as to prevent specific records from being readily identified. If bulk is maintained, no special procedures are required. If bulk cannot be maintained or if the form of the records makes individually identifiable information easily available, dispose of the record in accordance with paragraph (c)(1) of this section.

§ 310.14 Notification when information is lost, stolen, or compromised.

(a) If records containing personal information are lost, stolen, or compromised, the potential exists that the records may be used for unlawful purposes, such as identity theft, fraud, stalking, etc. The personal impact on the affected individual will be severe if the records are misused. To assist the individual, the Component shall notify the individual of any loss, theft, or compromise.

(1) The notification shall be made whenever information pertaining to a service member, civilian employee (appropriated or non-appropriated fund), military retiree, family member, DoD contractor, or any other person that is affiliated with the Component (*e.g.*, volunteer) is involved (See § 310.50).

(2) The notification shall be made as soon as possible, but not later than 10 working days after the loss, theft, or compromise is discovered and the identities of the individuals ascertained.

(i) The 10-day period begins to run after the Component is able to determine the identities of the individuals whose records were lost.

(ii) If the Component is only able to identify some but not all of the affected individuals, notification shall be given to those that can be identified with

follow-up notifications made to those subsequently identified.

(iii) If the Component cannot readily identify the affected individuals or will not be able to identify the individuals, the Component shall provide a generalized notice to the potentially impacted population by whatever means the Component believes is most likely to reach the affected individuals.

(3) When personal information is maintained by a DoD contractor on behalf of the Component, the contractor shall notify the Component immediately upon discovery that a loss, theft or compromise has occurred.

(i) The Component shall determine whether the Component or the contractor shall make the required notification.

(ii) If the contractor is to notify the impacted population, it shall submit the notification letters to the Component for review and approval. The Component shall coordinate with the Contractor to ensure the letters meet the requirements of § 310.14.

(4) Subject to paragraph (a)(2) of this section, the Component shall inform the Deputy Secretary of Defense of the reasons why notice was not provided to the individuals or the affected population within the 10-day period.

(i) If for good cause (*e.g.*, law enforcement authorities request delayed notification as immediate notification will jeopardize investigative efforts), notice can be delayed, but the delay shall only be for a reasonable period of time. In determining what constitutes a reasonable period of delay, the potential harm to the individual must be weighed against the necessity for delayed notification.

(ii) Notification to the Deputy Secretary shall be forwarded to the Component Privacy Official, who shall forward it to the DPO. The DPO, in coordination with the Office of the Under Secretary of Defense for Personnel and Readiness, shall forward the notice to the Deputy Secretary.

(5) The notice to the individual, at a minimum, shall include the following:

(i) The individuals shall be advised of what specific data was involved. It is insufficient to simply state that personal information has been lost. Where names, social security numbers, and dates of birth are involved, it is critical that the individual be advised that these data elements potentially have been compromised.

(ii) The individual shall be informed of the facts and circumstances surrounding the loss, theft, or compromise. The description of the loss should be sufficiently detailed so that the individual clearly understands how the compromise occurred.

(iii) The individual shall be informed of what protective actions the Component is taking or the individual can take to mitigate against potential future harm. The Component should refer the individual to the Federal Trade Commission's public Web site on identity theft at *http://www.consumer.gov/idtheft/con_steps.htm*. The site provides valuable information as to what steps individuals can take to protect themselves if their identities potentially have been or are stolen.

(iv) A sample notification letter is at Appendix B.

(b) The notification shall be made whether or not the personal information is contained in a system of records (See § 310.10(a)).

Subpart C—Collecting Personal Information

§ 310.15 General considerations.

(a) *Collect directly from the individual.* Collect to the greatest extent practicable personal information directly from the individual to whom it pertains if the information may result in adverse determination about an individual's rights, privileges, or benefits under any Federal program.

(b) *Collecting social security numbers (SSNs).* (1) It is unlawful for any Federal, State, or local governmental agency to deny an individual any right, benefit, or privilege provided by law because the individual refuses to provide his or her SSN. However, if a Federal statute requires the SSN be furnished or if the SSN is furnished to a DoD Component maintaining a system of records in existence that was established and in operation before January 1, 1975, and the SSN was required under a statute or regulation adopted prior to this date for purposes of verifying the identity of an individual, this restriction does not apply.

(2) When an individual is requested to provide his or her SSN, he or she must be told:

(i) What uses will be made of the SSN;

(ii) The statute, regulation, or rule authorizing the solicitation of the SSN; and

(iii) Whether providing the SSN is voluntary or mandatory.

(3) Include in any systems notice for any system of records that contains SSNs a statement indicating the authority for maintaining the SSN.

(4) E.O. 9397, "Numbering System for Federal Accounts Relating to Individual Persons", November 30, 1943, authorizes solicitation and use of SSNs as a numerical identifier for Federal personnel that are identified in most Federal record systems. However, it does not constitute authority for mandatory disclosure of the SSN.

(5) Upon entrance into military service or civilian employment with the Department of Defense, individuals are asked to provide their SSNs. The SSN becomes the service or employment number for the individual and is used to establish personnel, financial, medical, and other official records. The notification in paragraph (b)(2) of this section shall be provided the individual when originally soliciting his or her SSN. The notification is not required if an individual is requested to furnish his SSN for identification purposes and the SSN is solely used to verify the SSN that is contained in the records. However, if the SSN is solicited and retained for any purposes other than verifying the existing SSN in the records, the requesting official shall provide the individual the notification required by paragraph (b)(2) of this section.

(c) *Collecting personal information from third parties.* When information being solicited is of an objective nature and is not subject to being altered, the information should first be collected from the individual. But it may not be practicable to collect personal information first from the individual in all cases. Some examples of this are:

(1) Verification of information through third-party sources for security or employment suitability determinations;

(2) Seeking third-party opinions such as supervisor comments as to job knowledge, duty performance, or other opinion-type evaluations;

(3) When obtaining information first from the individual may impede rather than advance an investigative inquiry into the actions of the individual.

(4) Contacting a third party at the request of the individual to furnish certain information such as exact periods of employment, termination dates, copies of records, or similar information.

(d) *Privacy Act Statements.* (1) When an individual is requested to furnish personal information about himself or herself for inclusion in a system of records, a Privacy Act Statement is required regardless of the medium used to collect the information (forms, personal interviews, telephonic interviews, or other methods). The Privacy Act Statement consists of the elements set forth in paragraph (d)(2)of this section. The statement enables the individual to make an informed decision whether to provide the

information requested. If the personal information solicited is not to be incorporated into a system of records, the statement need not be given. However, personal information obtained without a Privacy Act Statement shall not be incorporated into any system of records. When soliciting SSNs for any purpose, see paragraph (b)(2) of this section.

(2) The Privacy Act Statement shall include:

(i) The Federal statute or Executive Order that authorizes collection of the requested information (See § 310.10(d)).

(ii) The principal purpose or purposes for which the information is to be used;

(iii) The routine uses that will be made of the information (See § 310.22(d));

(iv) Whether providing the information is voluntary or mandatory (See paragraph (e) of this section); and

(v) The effects on the individual if he or she chooses not to provide the requested information.

(3) The Privacy Act Statement shall be concise, current, and easily understood.

(4) The Privacy Act statement may appear as a public notice (sign or poster), conspicuously displayed in the area where the information is collected, such as at check-cashing facilities or identification photograph facilities (but see § 310.16(a)).

(5) The individual normally is not required to sign the Privacy Act Statement.

(6) The individual shall be provided a written copy of the Privacy Act Statement upon request. This must be done regardless of the method chosen to furnish the initial advisement.

(e) *Mandatory as opposed to voluntary disclosures.* Include in the Privacy Act Statement specifically whether furnishing the requested personal data is mandatory or voluntary. A requirement to furnish personal data is mandatory only when the DoD Component is authorized to impose a penalty on the individual for failure to provide the requested information. If a penalty cannot be imposed, disclosing the information is always voluntary.

§ 310.16 Forms.

(a) *DoD Forms.* (1) DoD Instruction 7750.7 [8] provides guidance for preparing Privacy Act Statements for use with forms (see also paragraph (b) of this section).

(2) When forms are used to collect personal information, the Privacy Act Statement shall appear as follows (listed in the order of preference):

(i) In the body of the form, preferably just below the title so that the reader will be advised of the contents of the statement before he or she begins to complete the form;

(ii) On the reverse side of the form with an appropriate annotation under the title giving its location;

(iii) On a tear-off sheet attached to the form; or

(iv) As a separate supplement to the form.

(b) *Forms issued by non-DoD activities.* (1) Forms subject to the Privacy Act issued by other Federal Agencies must have a Privacy Act Statement. Always ensure the statement prepared by the originating Agency is adequate for the purpose for which the form shall be used by the DoD activity. If the Privacy Act Statement provided is inadequate, the DoD Component concerned shall prepare a new statement or a supplement to the existing statement before using the form.

(2) Forms issued by agencies not subject to the Privacy Act (State, municipal, and other local agencies) do not contain Privacy Act Statements. Before using a form prepared by such agencies to collect personal data subject to this part, an appropriate Privacy Act Statement must be added.

Subpart D—Access by individuals

§ 310.17 Individual access to personal information.

(a) *Individual access.* (1) The access provisions of this part are intended for use by individuals who seek access to records about themselves that are maintained in a system of records. Release of personal information to individuals under this part is not considered public release of the information.

(2) Make available to the individual to whom the record pertains all of the personal information contained in the system of records except where access may be denied pursuant to an exemption claimed for the system (see subpart F to this part). However, when the access provisions of this subpart are not available to the individual due to a claimed exemption, the request shall be processed to provide information that is disclosable pursuant to the DoD Freedom of Information Act program (see 32 CFR, part 286).

(b) *Individual requests for access.* Individuals shall address requests for access to personal information in a system of records to the system manager or to the office designated in the DoD Component procedural rules or the system notice.

(c) *Verification of identity.* (1) Before granting access to personal data, an individual may be required to provide reasonable proof his or her identity.

(2) Identity verification procedures shall not:

(i) Be so complicated as to discourage unnecessarily individuals from seeking access to information about themselves; or

(ii) Be required of an individual seeking access to records that normally would be available under the DoD Freedom of Information Act Program (see 32 CFR, part 286).

(iii) When an individual seeks personal access to records pertaining to themselves in person, proof of identity is normally provided by documents that an individual ordinarily possesses, such as employee and military identification cards, driver's license, other licenses, permits or passes used for routine identification purposes.

(iv) When access is requested by mail, identity verification may consist of the individual providing certain minimum identifying data, such as full name, date and place of birth, or such other personal information necessary to locate the record sought and information that is ordinarily only known to the individual. If the information sought is of a sensitive nature, additional identifying data may be required. An unsworn declaration under penalty of perjury (28 U.S.C. 1746, "Unsworn Declaration under Penalty of Perjury") or notarized signatures are acceptable as a means of proving the identity of the individual.

(A) If an unsworn declaration is executed within the United States, its territories, possessions, or commonwealths, it shall read "I declare (or certify, verify, or state) under penalty of perjury that the foregoing is true and correct. Executed on (date). (Signature)."

(B) If an unsworn declaration is executed outside the United States, it shall read "I declare (or certify, verify, or state) under penalty of perjury under the laws of the United States of America that the foregoing is true and correct. Executed on (date). (Signature)."

(v) If an individual wishes to be accompanied by a third party when seeking access to his or her records or to have the records released directly to a third party, the individual may be required to furnish a signed access authorization granting the third-party access.

(vi) An individual shall not be refused access to his or her record solely because he or she refuses to divulge his or her SSN unless the SSN is the only method by which retrieval can be made. (See § 310.15(b)).

(vii) The individual is not required to explain or justify his or her need for access to any record under this part.

[8] See footnote 1 to § 310.1.

(viii) Only a denial authority may deny access and the denial must be in writing and contain the information required by 310.18.

(d) *Granting individual access to records.* (1) Grant the individual access to the original record or an exact copy of the original record without any changes or deletions, except when deletions have been made in accordance with paragraph (e) of this Section. For the purpose of granting access, a record that has been amended under § 310.19(b)is considered to be the original. See paragraph (e) of this Section for the policy regarding the use of summaries and extracts.

(2) Provide exact copies of the record when furnishing the individual copies of records under this part.

(3) Explain in terms understood by the requestor any record or portion of a record that is not clear.

(e) *Illegible, incomplete, or partially exempt records.* (1) Do not deny an individual access to a record or a copy of a record solely because the physical condition or format of the record does not make it readily available (for example, deteriorated state or on magnetic tape). Either prepare an extract or recopy the document exactly.

(2) If a portion of the record contains information is exempt from access, an extract or summary containing all of the information in the record that is releasable shall be prepared.

(3) When the physical condition of the record or its state makes it necessary to prepare an extract for release, ensure the extract can be understood by the requester.

(4) Explain to the requester all deletions or changes to the records.

(f) *Access to medical records.* (1) Access to medical records is not only governed by the access provisions of this part but also by the access provisions of DoD 6025.18–R. The Privacy Act, as implemented by this part, however, provides greater access to an individual's medical record that that authorized by DoD 6025.18–R.

(2) Medical records in a system of records shall be disclosed to the individual to whom they pertain, even if a minor, unless it is believed that access to such records could have an adverse effect on the mental or physical health of the individual or may result in harm to a third party. This determination shall be made in consultation with a medical doctor.

(3) If it is determined that the release of the medical information may be harmful to the mental or physical health of the individual or to a third party:

(i) Send the record to a physician named by the individual; and

(ii) In the transmittal letter to the physician explain why access by the individual without proper professional supervision could be harmful (unless it is obvious from the record).

(4) Do not require the physician to request the records for the individual.

(5) If the individual refuses or fails to designate a physician, the record shall not be provided. Such refusal of access is not considered a denial under the Privacy Act (see paragraph (a) of § 310.18).

(6) If records are provided the designated physician, but the physician declines or refuses to provide the records to the individual, the DoD Component is under an affirmative duty to take action to deliver the records to the individual by whatever means deemed appropriate. Such action should be taken expeditiously especially if there has been a significant delay between the time the records were furnished the physician and the decision by the physician not to release the records.

(7) Access to a minor's medical records may be granted to his or her parents or legal guardians. However, access may be subject to one or more of the below restrictions:

(i) In the United States, the laws of the particular State in which the records are located may afford special protection to certain types of medical records (for example, records dealing with treatment for drug or alcohol abuse and certain psychiatric records). Even if the records are maintained by a military medical facilities these statutes may apply.

(ii) For the purposes of parental access to the medical records and medical determinations regarding minors at overseas installation the age of majority is 18 years except when:

(A) A minor at the time he or she sought or consented to the treatment was between 15 and 17 years of age;

(B) The treatment was sought in a program that was authorized by regulation or statute to offer confidentiality of treatment records as a part of the program;

(C) The minor specifically requested or indicated that he or she wished the treatment record to be handled with confidence and not released to a parent or guardian; and

(D) The parent or guardian seeking access does not have the written authorization of the minor or a valid court order granting access.

(iii) If all four of the above conditions are met, the parent or guardian shall be denied access to the medical records of the minor. Do not use these procedures to deny the minor access to his or her own records under this part or any other statutes.

(8) All members of the Military Services and all married persons are not considered minors regardless of age, and the parents of these individuals do not have access to their medical records without written consent of the individual.

(g) *Access to information compiled in anticipation of civil action (see § 310.27).*

(h) *Non-Agency Records.* (1) Certain documents under the physical control of DoD personnel and used to assist them in performing official functions, are not considered "Agency records" within the meaning of this part. Uncirculated personal notes and records that are not disseminated or circulated to any person or organization (for example, personal telephone lists or memory aids) that are retained or discarded at the author's discretion and over which the Component exercises no direct control are not considered Agency records. However, if personnel are officially directed or encouraged, either in writing or orally, to maintain such records, they may become "Agency records," and may be subject to this part.

(2) The personal uncirculated handwritten notes of unit leaders, office supervisors, or military supervisory personnel concerning subordinates are not systems of records within the meaning of this part. Such notes are an extension of the individual's memory. These notes, however, must be maintained and discarded at the discretion of the individual supervisor and not circulated to others. Any established requirement to maintain such notes (such as, written or oral directives, regulations, or command policy) may transform these notes into "Agency records" and they then must be made a part of a system of records. If the notes are circulated, they must be made a part of a system of records. Any action that gives personal notes the appearance of official Agency records is prohibited, unless the notes have been incorporated into a system of records.

(i) *Relationship between the Privacy Act (5 U.S.C. 552a) and the FOIA (5 U.S.C. 552).* Not all requesters are knowledgeable of the appropriate statutory authority to cite when requesting records. In some instances, they may cite neither Act, but will imply one or both Acts. The below guidelines are provided to ensure requesters are given the maximum amount of information as authorized under both statutes.

(1) Process requests for individual access as follows:

(i) If the records are required to be released under the Privacy Act, the FOIA (32 CFR part 286) does not bar release even if a FOIA exemption could be invoked if the request had been processed solely under FOIA. Conversely, if the records are required to be released under the FOIA, the Privacy Act does not bar disclosure.

(ii) Requesters who seek records about themselves contained in a Privacy Act system of records, and who cite or imply only the Privacy Act, will have their records processed under the provisions of this part and the FOIA (32 CFR part 286). If the system of records is exempt from the access provisions of this part, and if the records, or any portion thereof, are exempt under the FOIA, the requester shall be advised and informed of the appropriate Privacy and FOIA exemption. Only if the records can be denied under both statutes may the Department withhold the records from the individual. Appeals shall be processed under both Acts.

(iii) Requesters who seek records about themselves that are not contained in a Privacy Act system of records, and who cite or imply only the Privacy Act, will have their requests processed under the provisions of the FOIA (32 CFR part 286), because the access provisions of this part do not apply. Appeals shall be processed under the FOIA.

(iv) Requesters who seek records about themselves that are contained in a Privacy Act system of records, and who cite or imply the FOIA or both Acts, will have their requests processed under the provisions of this part and the FOIA (32 CFR part 286). If the system of records is exempt from the access provisions of this part, and if the records, or any portion thereof, are exempt under the FOIA, the requester shall be advised and informed of the appropriate Privacy and FOIA exemption. Appeals shall be processed under both Acts.

(v) Requesters who seek records about themselves that are not contained in a Privacy Act system of records, and who cite or imply the Privacy Act and FOIA, will have their requests processed under the FOIA (32 CFR part 286), because the access provisions of this part do not apply. Appeals shall be processed under the FOIA.

(2) Do not deny individuals' access to personal information concerning themselves that would otherwise be releasable to them under either Act solely because they fail to cite or imply either Act or cite the wrong Act or part.

(3) Explain to the requester which Act(s) was(were) used when granting or denying access under either Act.

(j) *Time limits.* DoD Components normally shall acknowledge requests for access within 10 working days after receipt and provide access within 30 working days.

(k) *Privacy case file.* Establish a Privacy Act case file when required. (see paragraph (p) of § 310.19).

§ 310.18 Denial of individual access.

(a) *Denying individual access.* (1) An individual may be denied access to a record pertaining to him or her only if the record:

(i) Was compiled in reasonable anticipation of a civil action or proceeding (see § 310.27).

(ii) Is in a system of records that has been exempted from the access provisions of this part under one of the permitted exemptions. (see § 310.28 and § 310.29).

(iii) Contains classified information that has been exempted from the access provision of this part under the blanket exemption for such material claimed for all DoD records systems. (see 310.26(c)).

(iv) Is contained in a system of records for which access may be denied under some other Federal statute that excludes the record from coverage of the Privacy Act (5 U.S.C 552a).

(2) Where a basis for denial exists, do not deny the record, or portions of the record, if denial does not serve a legitimate governmental purpose.

(b) *Other reasons to refuse access:* (1) An individual may be refused access if:

(i) The record is not described well enough to enable it to be located with a reasonable amount of effort on the part of an employee familiar with the file; or

(ii) Access is sought by an individual who fails or refuses to comply with the established procedural requirements, including refusing to name a physician to receive medical records when required (see paragraph (f) of § 310.17) or to pay fees (see § 310.20).

(2) Always explain to the individual the specific reason access has been refused and how he or she may obtain access.

(c) *Notifying the individual.* Formal denials of access must be in writing and include as a minimum:

(1) The name, title or position, and signature of a designated Component denial authority.

(2) The date of the denial.

(3) The specific reason for the denial, including specific citation to the appropriate sections of the Privacy Act (5 U.S.C. 552a) or other statutes, this part, DoD Component instructions, or CFR authorizing the denial;

(4) Notice to the individual of his or her right to appeal the denial through the Component appeal procedure within 60 calendar days; and

(5) The title or position and address of the Privacy Act appeals official for the Component.

(d) *DoD Component appeal procedures.* Establish internal appeal procedures that, as a minimum, provide for:

(1) Review by the Head of the Component or his or her designee of any appeal by an individual from a denial of access to Component records.

(2) Formal written notification to the individual by the appeal authority that shall:

(i) If the denial is sustained totally or in part, include as a minimum:

(A) The exact reason for denying the appeal to include specific citation to the provisions of the Act or other statute, this part, Component instructions or the CFR upon which the determination is based;

(B) The date of the appeal determination;

(C) The name, title, and signature of the appeal authority; and

(D) A statement informing the applicant of his or her right to seek judicial relief.

(ii) If the appeal is granted, notify the individual and provide access to the material to which access has been granted.

(3) The written appeal notification granting or denying access is the final Component action as regards access.

(4) The individual shall file any appeal from denial of access within no less than 60 calendar days of receipt of the denial notification.

(5) Process all appeals within 30 days of receipt unless the appeal authority determines that a fair and equitable review cannot be made within that period. Notify the applicant in writing if additional time is required for the appellate review. The notification must include the reasons for the delay and state when the individual may expect an answer to the appeal.

(e) *Denial of appeals by failure to act.* A requester may consider his or her appeal formally denied if the appeal authority fails:

(1) To act on the appeal within 30 days;

(2) To provide the requester with a notice of extension within 30 days; or

(3) To act within the time limits established in the Component's notice of extension (see paragraph (d)(5) of this section).

(f) *Denying access to OPM records held by the DoD Components.* (1) The records in all systems of records maintained in accordance with the OPM Government-wide system notices are technically only in the temporary custody of the Department of Defense.

(2) All requests for access to these records must be processed in accordance with 5 CFR part 297 as well as applicable Component procedures.

(3) When a DoD Component refuses to grant access to a record in an OPM system, the Component shall advise the individual that his or her appeal must be directed to the Assistant Director for Workforce Information, Personnel Systems and Oversight Group, U.S. Office of Personnel Management, 1900 E Street, NW., Washington, DC in accordance with the procedures of 5 CFR part 297.

§ 310.19 Amendment of records.

(a) *Individual review and correction.* Individuals are encouraged to review the personal information being maintained about them by the DoD Components periodically and to avail themselves of the procedures established by this part and other Regulations to update their records.

(b) *Amending records.* (1) An individual may request the amendment of any record contained in a system of records pertaining to him or her unless the system of record has been exempted specifically from the amendment procedures of this Regulation under paragraph (b) of § 310.26. Normally, amendments under this part are limited to correcting factual matters and not matters of official judgment, such as performance ratings, promotion potential, and job performance appraisals.

(2) While a Component may require that the request for amendment be in writing, this requirement shall not be used to discourage individuals from requesting valid amendments or to burden needlessly the amendment process.

(3) A request for amendment must include:

(i) A description of the item or items to be amended;

(ii) The specific reason for the amendment;

(iii) The type of amendment action sought (deletion, correction, or addition); and

(iv) Copies of available documentary evidence supporting the request.

(c) *Burden of proof.* The applicant must support adequately his or her claim.

(d) *Identification of requesters.* (1) Individuals may be required to provide identification to ensure that they are indeed seeking to amend a record pertaining to themselves and not, inadvertently or intentionally, the record of others.

(2) The identification procedures shall not be used to discourage legitimate requests or to burden needlessly or delay the amendment process. (see paragraph (c) of § 310.17)

(e) *Limits on attacking evidence previously submitted.* (1) The amendment process is not intended to permit the alteration of records presented in the course of judicial or quasi-judicial proceedings. Any amendments or changes to these records normally are made through the specific procedures established for the amendment of such records.

(2) Nothing in the amendment process is intended or designed to permit a collateral attack upon what has already been the subject of a judicial or quasi-judicial determination. However, while the individual may not attack the accuracy of the judicial or quasi-judicial determination under this part, he or she may challenge the accuracy of the recording of that action.

(f) *Sufficiency of a request to amend.* Consider the following factors when evaluating the sufficiency of a request to amend:

(1) The accuracy of the information; and

(2) The relevancy, timeliness, completeness, and necessity of the recorded information.

(g) *Time limits.* (1) Provide written acknowledgement of a request to amend within 10 working days of its receipt by the appropriate systems manager. There is no need to acknowledge a request if the action is completed within 10 working days and the individual is so informed.

(2) The letter of acknowledgement shall clearly identify the request and advise the individual when he or she may expect to be notified of the completed action.

(3) Only under the most exceptional circumstances shall more than 30 days be required to reach a decision on a request to amend. Document fully and explain in the Privacy Act case file (see paragraph (p) of this section) any such decision that takes more than 30 days to resolve.

(h) *Agreement to amend.* If the decision is made to grant all or part of the request for amendment, amend the record accordingly and notify the requester.

(i) *Notification of previous recipients.* (1) Notify all previous recipients of the record, as reflected in the disclosure accounting records, that an amendment has been made and the substance of the amendment. Recipients who are known to be no longer retaining the information need not be advised of the amendment. All DoD Components and Federal agencies known to be retaining the record or information, even if not reflected in a disclosure record, shall be notified of the amendment. Advise the requester of these notifications.

(2) Honor all requests by the requester to notify specific Federal agencies of the amendment action.

(j) *Denying amendment.* If the request for amendment is denied in whole or in part, promptly advise the individual in writing of the decision, to include:

(1) The specific reason and authority for not amending;

(2) Notification that he or she may seek further independent review of the decision by the Head of the DoD Component or his or her designee;

(3) The procedures for appealing the decision, citing the position and address of the official to whom the appeal shall be addressed; and

(4) Where he or she can receive assistance in filing the appeal.

(k) *DoD Component appeal procedures.* Establish procedures to ensure the prompt, complete, and independent review of each amendment denial upon appeal by the individual. These procedures must ensure that:

(1) The appeal, with all supporting material, both that furnished by the individual and that contained in Component records, is provided to the reviewing official; and

(2) If the appeal is denied completely or in part, the individual is notified in writing by the reviewing official that:

(i) The appeal has been denied and the specific reason and authority for the denial;

(ii) The individual may file a statement of disagreement with the appropriate authority, and the procedures for filing this statement;

(iii) If filed properly, the statement of disagreement shall be included in the records, furnished to all future recipients of the records, and provided to all prior recipients of the disputed records who are known to hold the record; and

(iv) The individual may seek a judicial review of the decision not to amend.

(3) If the record is amended, ensure that:

(i) The requester is notified promptly of the decision;

(ii) All prior known recipients of the records who are known to be retaining the record are notified of the decision and the specific nature of the amendment (see (l) of this Section); and

(iii) The requester is notified which DoD Components and Federal agencies have been told of the amendment.

(4) Process all appeals within 30 days unless the appeal authority determines that a fair review cannot be made within this time limit. If additional time is

required for the appeal, notify the requester, in writing, of the delay, the reason for the delay, and when he or she may expect a final decision on the appeal. Document fully all requirements for additional time in the Privacy Case File. (See paragraph (p) of this section)

(l) *Denying amendment of OPM records held by the DoD Components.* (1) The records in all systems of records controlled by the OPM Government-wide system notices are technically only temporarily in the custody of the Department of Defense.

(2) All requests for amendment of these records must be processed in accordance with 5 CFR part 297. The Component denial authority may deny a request. However, when an amendment request is denied, the DoD Component shall advise the individual that his or her appeal must be directed to the Assistant Director for Workforce Information, Personnel Systems and Oversight Group, U.S. Office of Personnel Management, 1900 E Street, Washington, DC 20415 in accordance with the procedures of 5 CFR part 297.

(m) *Statements of disagreement submitted by individuals.* (1) If the appellate authority refuses to amend the record as requested, the individual may submit a concise statement of disagreement setting forth his or her reasons for disagreeing with the decision not to amend.

(2) If an individual chooses to file a statement of disagreement, annotate the record to indicate that the statement has been filed (see paragraph (n) of this section).

(3) Furnish copies of the statement of disagreement to all DoD Components and Federal agencies that have been provided copies of the disputed information and who may be maintaining the information.

(n) *Maintaining statements of disagreement.* (1) When possible, incorporate the statement of disagreement into the record.

(2) If the statement cannot be made a part of the record, establish procedures to ensure that it is apparent from the records a statement of disagreement has been filed and maintain the statement so that it can be obtained readily when the disputed information is used or disclosed.

(3) Automated record systems that are not programmed to accept statements of disagreement shall be annotated or coded so they clearly indicate that a statement of disagreement is on file, and clearly identify the statement with the disputed information in the system.

(4) Provide a copy of the statement of disagreement whenever the disputed information is disclosed for any purpose.

(o) *The DoD Component statement of reasons for refusing to amend.* (1) A statement of reasons for refusing to amend may be included with any record for which a statement of disagreement is filed.

(2) Include in this statement only the reasons furnished to the individual for not amending the record. Do not comment on or respond to comments contained in the statement of disagreement. Normally, both statements are filed together.

(3) When disclosing information for which a statement of reasons has been filed, a copy of the statement may be released whenever the record and the statement of disagreement are disclosed.

(p) *Privacy case files.* (1) Establish a separate Privacy case file to retain the documentation received and generated during the amendment or access process.

(2) The Privacy case file shall contain as a minimum:

(i) The request for amendment and access.

(ii) Copies of the DoD Component's reply granting or denying the request;

(iii) Any appeals from the individual;

(iv) Copies of the action regarding the appeal with supporting documentation that is not in the basic file; and

(v) Any other correspondence generated in processing the appeal, to include coordination documentation.

(3) Only the items listed in paragraphs (p)(4) and (p)(5) of this section may be included in the system of records challenged for amendment or for which access is sought. Do not retain copies of the original record in the basic record system if the request for amendment is granted and the record has been amended.

(4) The following items relating to an amendment request may be included in the disputed record system:

(i) Copies of the amended record.

(ii) Copies of the individual's statement of disagreement (see paragraph (m) of this section).

(iii) Copies of the Component's statement of reasons for refusing to amend (see paragraph (o) of this section).

(iv) Supporting documentation submitted by the individual.

(5) The following items relating to an access request may be included in the basic records system:

(i) Copies of the request;

(ii) Copies of the Component's action granting total or partial access. (**Note:** A separate Privacy case file need not be created in such cases.)

(iii) Copies of the Component's action denying access.

(iv) Copies of any appeals filed.

(v) Copies of the reply to the appeal.

(6) Privacy case files shall not be furnished or disclosed to anyone for use in making any determination about the individual other than determinations made under this part.

§ 310.20 Reproduction fees.

(a) *Assessing fees.* (1) Charge the individual only the direct cost of reproduction.

(2) Do not charge reproduction fees if copying is:

(i) The only means to make the record available to the individual (for example, a copy of the record must be made to delete classified information); or

(ii) For the convenience of the DoD Component (for example, the Component has no reading room where an individual may review the record, or reproduction is done to keep the original in the Component's file).

(iii) No fees shall be charged when the record may be obtained without charge under any other Regulation, Directive, or statute.

(iv) Do not use fees to discourage requests.

(b) *No minimum fees authorized.* Use fees only to recoup direct reproduction costs associated with granting access. Minimum fees for duplication are not authorized and there is no automatic charge for processing a request.

(c) *Prohibited fees.* Do not charge or collect fees for:

(1) Search and retrieval of records;

(2) Review of records to determine releasability;

(3) Copying records for the DoD Component convenience or when the individual has not specifically requested a copy;

(4) Transportation of records and personnel; or

(5) Normal postage.

(d) *Waiver of fees.* (1) Normally, fees are waived automatically if the direct costs of a given request are less than $30. This fee waiver provision does not apply when a waiver has been granted to the individual before, and later requests appear to be an extension or duplication of that original request. A DoD Component may, however, set aside this automatic fee waiver provision when, on the basis of good evidence, it determines the waiver of fees is not in the public interest.

(2) Decisions to waiver or reduce fees that exceed the automatic waiver threshold shall be made on a case-by-case basis.

(e) Fees for Members of Congress. Do not charge members of Congress for copying records furnished even when the records are requested under the

Privacy Act on behalf of a constituent (See § 310.22(i)). When replying to a constituent inquiry and the fees involved are substantial, consider suggesting to the Congressman that the constituent can obtain the information directly by writing to the appropriate offices and paying the costs. When practical, suggest to the Congressman that the record can be examined at no cost if the constituent wishes to visit the custodian of the record.

(f) *Reproduction fees computation.* Compute fees using the appropriate portions of the fee schedule in 32 CFR part 286.

Subpart E—Disclosure of personal information to other agencies and third parties

§ 310.21 Conditions of disclosure.

(a) *Disclosures to third parties.* (1) The Privacy Act only compels disclosure of records from a system of records to the individuals to whom they pertain unless the records are contained in a system for which an exemption to the access provisions of this part has been claimed.

(2) Requests by other individuals (third parties) for the records of individuals that are contained in a system of records shall be processed under 32 CFR part 286 except for requests by the parents of a minor or the legal guardian of an individual for access to the records pertaining to the minor or individual.

(b) *Disclosures among the DoD Components.* For the purposes of disclosure and disclosure accounting, the Department of Defense is considered a single agency (see § 310.22(a)).

(c) *Disclosures outside the Department of Defense.* Do not disclose personal information from a system of records outside the Department of Defense unless:

(1) The record has been requested by the individual to whom it pertains.

(2) The written consent of the individual to whom the record pertains has been obtained for release of the record to the requesting Agency, activity, or individual; or

(3) The release is authorized pursuant to one of the specific non-consensual conditions of disclosure as set forth in § 310.22.

(d) *Validation before disclosure.* Except for releases made in accordance with 32 CFR part 286, the following steps shall be taken before disclosing any records to any recipient outside the Department of Defense, other than a Federal agency or the individual to whom it pertains:

(1) Ensure the records are accurate, timely, complete, and relevant for agency purposes;

(2) Contact the individual, if reasonably available, to verify the accuracy, timeliness, completeness, and relevancy of the information, if this cannot be determined from the record; or

(3) If the information is not current and the individual is not reasonably available, advise the recipient that the information is believed accurate as of a specific date and any other known factors bearing on its accuracy and relevancy.

§ 310.22 Non-consensual conditions of disclosure.

(a) *Disclosures within the Department of Defense.* (1) Records pertaining to an individual may be disclosed to a DoD official or employee provided:

(i) The requester has a need for the record in the performance of his or her assigned duties. The requester shall articulate in sufficient detail why the records are required so the custodian of the records may make an informed decision regarding their release;

(ii) The intended use of the record generally relates to the purpose for which the record is maintained; and

(iii) Only those records as are minimally required to accomplish the intended use are disclosed. The entire record is not released if only a part of the record will be responsive to the request.

(2) Rank, position, or title alone does not authorize access to personal information about others.

(b) *Disclosures required by the FOIA.* (1) All records must be disclosed if their release is required by FOIA (5 U.S.C. 552), as implemented by 32 CFR part 286. The FOIA requires records be made available to the public unless withholding is authorized pursuant to one of nine exemptions or one of three law enforcement exclusions under the Act.

(i) The DoD Component must be in receipt of a FOIA request and a determination made that the records are not withholdable pursuant to a FOIA exemption or exclusion before the records may be disclosed.

(ii) Records that have traditionally been released to the public by the Components may be disclosed whether or not a FOIA request has been received.

(2) The standard for exempting most personal records, such as personnel, medical, and similar records, is FOIA Exemption 6 (32 CFR 286.12(e)). Under that exemption, records can be withheld when disclosure, if other than to the individual about whom the information pertains, would result in a clearly unwarranted invasion of the individual's personal privacy.

(3) The standard for exempting personal records compiled for law enforcement purposes, including personnel security investigation records, is FOIA Exemption 7(C) (32 CFR 286.12(g)). Under that exemption, records can be withheld when disclosure, if other than to the individual about whom the information pertains, would result in an unwarranted invasion of the individual's personal privacy.

(4) If records or information are exempt from disclosure pursuant to the standards set forth in paragraphs (b)(2) and/or (b)(3) of this section, and the records are contained in a system of records (See § 310.10(a) of subpart B, the Privacy Act (5 U.S.C. 552a) prohibits release.

(5) *Personal information that is normally releasable*—(i) *DoD civilian employees.* (A) Some examples of personal information regarding DoD civilian employees that normally may be released without a clearly unwarranted invasion of personal privacy include:

(*1*) Name.

(*2*) Present and past position titles.

(*3*) Present and past grades.

(*4*) Present and past annual salary rates.

(*5*) Present and past duty stations.

(*6*) Position descriptions.

(B) All disclosures of personal information regarding Federal civilian employees shall be made in accordance with OPM release policies (see 5 CFR 293.311).

(ii) *Military members.* (A) While it is not possible to identify categorically information that must be released or withheld from military personnel records in every instance, the following items of personal information regarding military members normally may be disclosed without a clearly unwarranted invasion of their personal privacy:

(*1*) Full name.

(*2*) Rank.

(*3*) Date of rank.

(*4*) Gross salary.

(*5*) Past duty assignments.

(*6*) Present duty assignment.

(*7*) Future assignments that are officially established.

(*8*) Office or duty telephone numbers.

(*9*) Source of commission.

(*10*) Promotion sequence number.

(*11*) Awards and decorations.

(*12*) Attendance at professional military schools.

(*13*) Duty status at any given time.

(*14*) Home of record (identification of the state only).

(*15*) Length of military service.
(*16*) Basic Pay Entry Date.
(*17*) Official Photo.

(B) All disclosures of personal information regarding military members shall be made in accordance with 32 CFR part 286.

(iii) *Civilian employees not under the authority of OPM.* (A) While it is not possible to identify categorically those items of personal information that must be released regarding civilian employees not subject to 5 CFR parts 293, 294, and 297, such as nonappropriated fund employees, normally the following items may be released without a clearly unwarranted invasion of personal privacy:

(*1*) Full name.
(*2*) Grade or position.
(*3*) Date of grade.
(*4*) Gross salary.
(*5*) Present and past assignments.
(*6*) Future assignments, if officially established.
(*7*) Office or duty telephone numbers.

(B) All releases of personal information regarding civilian personnel in this category shall be made in accordance with 32 CFR part 286.

(6) When military or civilian personnel are assigned, detailed, or employed by the National Security Agency, the Defense Intelligence Agency, the National Reconnaissance Office, or the National Geospatial-Intelligence Agency, information about such personnel may only be disclosed as authorized by Public Law 86–36 (''National Security Agency—Officers and Employees'') and 10 U.S.C 424 (Disclosure of Organizational and Personnel Information: Exemption for Specified Intelligence Agencies''). When military and civilian personnel are assigned, detailed or employed by an overseas unit, a sensitive unit, or to a routinely deployable unit, information about such personnel may only be disclosed as authorized by 10 U.S.C. 130b (''Personnel in Overseas, Sensitive, or Routinely Deployed Units: Nondisclosure of Personally Identifying Information'').

(7) Information about military or civilian personnel that otherwise may be disclosable consistent with § 310.22(b)(5) may not be releasable if a requester seeks listings of personnel currently or recently assigned/detailed/employed within a particular component, unit, organization or office with the Department of Defense if the disclosure of such a list would pose a privacy or security threat.

(c) *Disclosures for established routine uses.* (1) Records may be disclosed outside the Department of Defense pursuant to a routine use that has been established for the system of records that contains the records.

(2) A routine use shall:

(i) Be compatible with the purpose for which the record was collected;

(ii) Identify the persons or organizations to whom the record may be released;

(iii) Identify specifically the intended uses of the information by the persons or organization; and

(iv) Have been published in the **Federal Register** (see § 310.32(i)).

(3) If a Federal statute or an E.O. of the President directs records contained in a system of records be disclosed outside the Department of Defense, the statute or E.O. serves as authority for the establishment of a routine use.

(4) New or altered routine uses must be published in the **Federal Register** at least 30 days before any records may be disclosed pursuant to the terms of the routine use (see subpart G of this part).

(5) In addition to the routine uses established for each of the individual system notices, blanket routine uses have been established (see Appendix C) are applicable to all DoD system of records. These blanket routine uses are published only at the beginning of the listing of system notices for each Component in the **Federal Register**. Each system notice shall expressly state whether or not the blanket routine uses apply to the system of records.

(d) *Disclosures to the Bureau of the Census.* Records in DoD systems of records may be disclosed without the consent of the individuals to whom they pertain to the Bureau of the Census for purposes of planning or carrying out a census survey or related activities pursuant to the provisions of 13 U.S.C. 6 (''Information from other Federal Departments and Agencies'').

(e) *Disclosures for statistical research or reporting.* (1) Records may be disclosed for statistical research or reporting but only after the intended recipient provides, in writing, the purpose for which the records are sought and assurances that the records will be used only for statistical research or reporting purposes.

(2) The records shall be transferred to the requester in a form that is not individually identifiable. DoD Components disclosing records under this provision are required to assure information being disclosed cannot reasonably be used in any way to make determinations about individuals.

(3) The records will not be used, in whole or in part, to make any determination about the rights, benefits, or entitlements of specific individuals.

(4) The written statement by the requester shall be made part of the Component's accounting of disclosures (See paragraph (a) of 310.25).

(f) Disclosures to the National Archives and Record Administration (NARA), General Services Administration (GSA).

(1) Records may be disclosed to the NARA if they:

(i) Have historical or other value to warrant continued preservation; or

(ii) For evaluation by the Archivist of the United States, or his or her designee, to determine if a record has such historical or other value.

(2) Records transferred to a Federal Records Center (FRC) for safekeeping and storage do not fall within this category. These records are owned by the Component and remain under the control of the transferring Component. FRC personnel are considered agents of the Component that retains control over the records. No disclosure accounting is required for the transfer of records to the FRCs.

(g) *Disclosures for law enforcement purposes.* (1) Records may be disclosed to another Agency or an instrumentality of any Governmental jurisdiction within or under the control of the United States for a civil or criminal law enforcement activity, provided:

(i) The civil or criminal law enforcement activity is authorized by law;

(ii) The head of the law enforcement activity or a designee has made a written request specifying the particular records desired and the law enforcement purpose (such as criminal investigations, enforcement of a civil law, or a similar purpose) for which the record is sought; and

(iii) There is no Federal statute that prohibits the disclosure of the records.

(2) Blanket requests for any and all records pertaining to an individual shall not be honored absent justification.

(3) When a record is released to a law enforcement activity under this subparagraph, the disclosure accounting (see § 310.25) for the release shall not be made available to the individual to whom the record pertains if the law enforcement activity requests that the disclosure not be disclosed.

(4) The blanket routine use for law enforcement (Appendix C, Section A) applies to all DoD Component systems notices (see paragraph (b)(6) of this section). This permits Components, on their own initiative, to report indications of violations of law found in a system of records to a law enforcement activity.

(5) Disclosures may be made to Federal, State, or local, but not foreign law enforcement agencies. Disclosures to foreign law enforcement agencies

may be made if a routine use has been established for the system of records from which the records are to be released.

(h) *Emergency disclosures.* (1) Records may be disclosed if disclosure is made under compelling circumstances affecting the health or safety of any individual. The affected individual need not be the subject of the record disclosed.

(2) When such a disclosure is made, the Component shall notify the individual who is the subject of the record. Notification sent to the last known address of the individual as known to the Component is sufficient.

(3) The specific data to be disclosed is at the discretion of the Component.

(4) Emergency medical information may be released by telephone.

(i) *Disclosures to Congress and the GAO.* (1) Records may be disclosed to either House of the Congress or to any committee, joint committee or subcommittee of Congress if the release pertains to a matter within the jurisdiction of the committee. Records may also be disclosed to the GAO in the course of the activities of GAO.

(2) The blanket routine use for "Congressional Inquiries" (see Appendix C, Section D) applies to all systems; therefore, there is no need to verify that the individual has authorized the release of his or her record to a congressional member when responding to a congressional constituent inquiry.

(3) If necessary, accept constituent letters requesting a member of Congress to investigate a matter pertaining to the individual as written authorization to provide access to the records to the congressional member or his or her staff.

(4) The verbal statement by a Congressional staff member is acceptable to establish that a request has been received from the person to whom the records pertain.

(5) If the constituent inquiry is being made on behalf of someone other than the individual to whom the record pertains, provide the Congressional member only information releasable under 32 CFR part 286. Advise the Congressional member that the written consent of the individual to whom the record pertains is required before any additional information may be released. Do not contact individuals to obtain their consents for release to Congressional members unless a Congressional office specifically requests that this be done.

(6) Nothing in paragraph (i)(2) of this section prohibits a Component, when appropriate, from providing the record directly to the individual and notifying the Congressional office that this has been done without providing the record to the Congressional member.

(7) See paragraph (e) of § 310.20 for the policy on assessing fees for Members of Congress.

(8) Make a disclosure accounting each time a record is disclosed to either House of Congress, to any committee, joint committee, or subcommittee of Congress, to any congressional member, or the GAO.

(j) *Disclosures under court orders.* (1) Records may be disclosed without the consent of the person to whom they pertain under a court order signed by a judge of a court of competent jurisdiction.

(2) When a record is disclosed under this provision, make reasonable efforts to notify the individual to whom the record pertains, if the legal process is a matter of public record.

(3) If the process is not a matter of public record at the time it is issued, seek information as to when the process is to be made public and make reasonable efforts to notify the individual at that time.

(4) Notification sent to the last known address of the individual as reflected in the records is considered a reasonable effort to notify.

(5) Make a disclosure accounting each time a record is disclosed under a court order or compulsory legal process.

(k) *Disclosures to Consumer Reporting Agencies.* (1) Certain personal information may be disclosed to consumer reporting agencies as provided in the Federal Claims Collection Act (31 U.S.C. 3711(e)).

(2) Under the provisions of paragraph (k)(1) of this section, the following information may be disclosed to a consumer reporting agency:

(i) Name, address, taxpayer identification number (SSN), and other information necessary to establish the identity of the individual.

(ii) The amount, status, and history of the claim.

(iii) The Agency or program under which the claim arose.

(3) The Federal Claims Collection Act (31 U.S.C. 3711(e)) requires the system notice for the system of records from which the information will be disclosed, indicates that the information may be disclosed to a consumer reporting agency.

§ 310.23 Disclosures to commercial enterprises.

(a) *General policy.* (1) Make releases of personal information to commercial enterprises under the criteria established by 32 CFR part 286.

(2) The relationship of commercial enterprises to their clients or customers and to the Department of Defense are not changed by this part.

(3) The DoD policy on personal indebtedness for military personnel is contained 32 CFR part 112, "Indebtedness of Military Personnel," and for civilian employees in 5 CFR part 735.

(b) *Release of personal information.* (1) Any information that must be released under 32 CFR part 286, the "DoD Freedom of Information Act Program," may be released to a commercial enterprise without the individual's consent (see paragraph (b) of § 310.22).

(2) Commercial enterprises may present a signed consent statement setting forth specific conditions for release of personal information. Statements such as the following, if signed by the individual, are considered valid:

> "I hereby authorize the Department of Defense to verify my Social Security Number or other identifying information and to disclose my home address and telephone number to authorized representatives of (name of commercial enterprise) so that they may use this information in connection with my commercial dealings with that enterprise. All information furnished shall be used in connection with my financial relationship with (name of commercial enterprise)."

(3) When a statement of consent as outlined in paragraph (b)(2) of this section is presented, provide the requested information if its release is not prohibited by some other regulation or statute.

(4) Blanket statements of consent that do not identify the Department of Defense or any of its Components, or that do not specify exactly the type of information to be released, may be honored if it is clear the individual in signing the consent statement intended to obtain a personal benefit (for example, a loan to buy a house) and was aware of the type information that would be sought. Care should be exercised in these situations to release only the minimum amount of personal information essential to obtain the benefit sought.

(5) Do not honor requests from commercial enterprises for official evaluation of personal characteristics, such as evaluation of personal financial habits.

§ 310.24 Disclosures to the public from medical records.

(a) Disclosures from medical records are not only governed by the requirement of this part but also by the disclosure provisions of DoD 6025.18–R.

(b) Any medical records that are subject to both this part and DoD

6025.18–R may only be disclosed if disclosure is authorized under both. If disclosure is permitted under this part (e.g., pursuant to a routine use), but the disclosure is not authorized under DoD 6025.18–R, disclosure is not authorized. If a disclosure is authorized under DoD 6025.18–R (e.g., releases outside the Department of Defense), but the disclosure is not authorized under this part, disclosure is not authorized.

§ 310.25 Disclosure accounting.

(a) Disclosure accountings. (1) Keep an accurate record of all disclosures made from any system of records except disclosures:

(i) To DoD personnel for use in the performance of their official duties; or

(ii) Under 5 U.S.C. 552, the FOIA.

(2) In all other cases a disclosure accounting is required even if the individual has consented to the disclosure of the information.

(3) Disclosure accountings:

(i) Permit individuals to determine to whom information has been disclosed;

(ii) Enable the activity to notify past recipients of disputed or corrected information (§ 310.19(i)); and

(iii) Provide a method of determining compliance with paragraph (c) of § 310.21.

(b) *Contents of disclosure accountings.* As a minimum, disclosure accounting shall contain:

(1) The date of the disclosure.

(2) A description of the information released.

(3) The purpose of the disclosure.

(4) The name and address of the person or Agency to whom the disclosure was made.

(c) *Methods of disclosure accounting.* Use any system of disclosure accounting that shall provide readily the necessary disclosure information (see paragraph (a)(3) of this section).

(d) *Accounting for mass disclosures.* When numerous similar records are released, identify the category of records disclosed and include the data required by paragraph (b) of this section in a form that can be used to construct an accounting disclosure record for individual records if required (see paragraph (a)(3) of this section).

(e) *Disposition of disclosure accounting records.* Retain disclosure accounting records for 5 years after the disclosure or the life of the record, whichever is longer.

(f) *Furnishing disclosure accountings to the individual.* (1) Make available to the individual to whom the record pertains all disclosure accountings except when:

(i) The disclosure has been made to a law enforcement activity under paragraph (g) of § 310.22 and the law enforcement activity has requested that disclosure not be made; or

(ii) The system of records has been exempted from the requirement to furnish the disclosure accounting under the provisions of § 310.26(b).

(2) If disclosure accountings are not maintained with the record and the individual requests access to the accounting, prepare a listing of all disclosures (see paragraph (b) of this section) and provide this to the individual upon request.

Subpart F—Exemptions

§ 310.26 Use and establishment of exemptions.

(a) *Types of exemptions.* (1) There are three types of exemptions permitted by the Privacy Act (5 U.S.C. 552a).

(i) An access exemption that exempts records compiled in reasonable anticipation of a civil action or proceeding from the access provisions of the Act.

(ii) General exemptions that authorize the exemption of a system of records from all but certain specifically identified provisions of the Act (see Appendix D).

(iii) Specific exemptions that allow a system of records to be exempted only from certain designated provisions of the Act (see Appendix D).

(2) Nothing in the Act permits exemption of any system of records from all provisions of the Act.

(b) *Establishing exemptions.* (1) The access exemption is self-executing. It does not require an implementing rule to be effective.

(2) Neither general nor specific exemptions are established automatically for any system of records. The Heads of the DoD Components maintaining the system of records must make a determination whether the system is one for which an exemption properly may be claimed and then propose and establish an exemption rule for the system. No system of records within the Department of Defense shall be considered exempted until the Head of the Component has approved the exemption and an exemption rule has been published as a final rule in the **Federal Register** (See § 310.30(e)).

(3) Only the Head of the DoD Component or an authorized designee may claim an exemption for a system of records.

(4) A system of records is considered exempt only from those provisions of the Privacy Act (5 U.S.C. 552a) that are identified specifically in the Component exemption rule for the system and that are authorized by the Privacy Act.

(5) To establish an exemption rule, see § 310.31.

(c) *Blanket exemption for classified material.* (1) Component rules shall include a blanket exemption under 5 U.S.C. 552a(k)(1) of the Privacy Act from the access provisions (5 U.S.C. 552a(d)) and the notification of access procedures (5 U.S.C. 522a(e)(4)(H)) of the Act for all classified material in any systems of records maintained.

(2) Do not claim specifically an exemption under section 552a(k)(1) of the Privacy Act for any system of records. The blanket exemption affords protection to all classified material in all system of records maintained.

(d) *Provisions from which exemptions may be claimed.* (1) The Head of a DoD Component may claim an exemption from any provision of the Act from which an exemption is allowed (see Appendix D).

(2) DoD Components shall consult with the DPO before initiating action to claim either a general or specific exemption for any system of records.

(e) *Use of exemptions.* (1) Use exemptions only for the specific purposes set forth in the exemption rules (see paragraph (b) of § 310.31).

(2) Use exemptions only when they are in the best interest of the Government and limit them to the specific portions of the records requiring protection.

(3) Do not use an exemption to deny an individual access to any record to which he or she would have access under 32 CFR part 286.

(f) *Exempt records in non-exempt systems.* (1) Exempt records temporarily in the custody of another Component are considered the property of the originating Component. Access to these records is controlled by the system notices and rules of the originating Component.

(2) Exempt records that have been incorporated into a nonexempt system of records are still exempt but only to the extent to which the provisions of the Act for which an exemption has been claimed are identified and an exemption claimed for the system of records from which the record is obtained and only when the purposes underlying the exemption for the record are still valid and necessary to protect the contents of the record.

(3) If a record is accidentally misfiled into a system of records, the system notice and rules for the system in which it should actually be filed shall govern.

§ 310.27 Access exemption.

(a) The term "civil action or proceeding" is intended to include

court proceedings or quasi-judicial administrative hearings or proceedings.

(b) Any information prepared in conjunction with judicial or quasi-judicial, either before or incident to the, proceedings, to include information prepared to advise the DoD Component officials of the possible legal or other consequences of a given course of action, are protected.

(c) The exemption is similar to the attorney work-product privilege except it applies even when the information is prepared by nonattorneys.

(d) The exemption does not apply to information compiled in anticipation of criminal actions.

§ 310.28 General exemption.

(a) A DoD Component is not authorized to claim the exemption for records maintained by the Central Intelligence Agency established by 5 U.S.C. 552a(j)(1) of the Privacy Act.

(b) The general exemption established by 5 U.S.C. 552a(j)(2) of the Privacy Act may be claimed to protect investigative records created and maintained by law-enforcement activities of a DoD Component.

(c) To qualify for the (j)(2) exemption, the system of records must be maintained by a DoD Component, or element thereof, that performs as its principal function any activity pertaining to the enforcement of criminal laws, such as the U.S. Army Criminal Investigation Command, the Naval Investigative Service, the Air Force Office of Special Investigations, and military police activities. However, where DoD offices perform multiple functions, but have an investigative component, such as the DoD Inspector General Defense Criminal Investigative Service or Criminal Law Divisions of Staff Judge Advocates Offices, the exemption may be claimed. Law enforcement include police efforts to detect, prevent, control, or reduce crime, to apprehend or identify criminals; and the activities of military trial counsel, correction, probation, pardon, or parole authorities.

(d) Information that may be protected under the (j)(2) exemption includes:

(1) Records compiled for the purpose of identifying criminal offenders and alleged offenders consisting only of identifying data and notations of arrests, the nature and disposition of criminal charges, sentencing, confinement, release, parole, and probation status (so-called criminal history records);

(2) Reports and other records compiled during criminal investigations, including supporting documentation.

(3) Other records compiled at any stage of the criminal law enforcement process from arrest or indictment through the final release from parole supervision, such as pre-sentence and parole reports.

(e) The (j)(2) exemption does not apply to:

(1) Investigative records prepared or maintained by activities without primary law-enforcement missions. It may not be claimed by any activity that does not have law enforcement as its principal function except as indicated in paragraph (c) of this section.

(2) Investigative records compiled by any activity concerning employee suitability, eligibility, qualification, or for individual access to classified material regardless of the principal mission of the compiling DoD Component.

§ 310.29 Specific exemptions.

(a) The specific exemption established by 5 U.S.C. 552a(k) of the Privacy Act may be claimed to protect records that meet the following criteria (parenthetical references are to the appropriate subsection of the Act:

(1) *(k)(1).* Information subject to 5 U.S.C. 552(b)(1), (DoD 5200.1–R) (see also paragraph (c) of this section).

(2) *(k)(2).* Investigatory information compiled for law-enforcement purposes, other than information that is covered by the general exemption (see § 310.28). If an individual is denied any right, privilege or benefit he or she is otherwise entitled by Federal law or for which he or she would otherwise be eligible as a result of the maintenance of the information, the individual shall be provided access to the information except to the extent that disclosure would reveal the identity of a confidential source. This exemption provides limited protection of investigative reports maintained in a system of records used in personnel or administrative actions.

(i) The information must be compiled for some investigative law enforcement purpose, such as a criminal investigation by a DoD office, whose principal function is not law enforcement, or a civil investigation.

(ii) The exemption does not apply to investigations conducted solely for the purpose of a routine background investigation (see paragraph (a)(5) of this section), but will apply if the investigation is for the purpose of investigating DoD personnel who are suspected of violating statutory or regulatory authority.

(iii) The exemption can continue to be claimed even after the investigation has concluded and there is no future likelihood of further enforcement proceedings.

(3) *(k)(3).* Records maintained in connection with providing protective services to the President and other individuals under 18 U.S.C. 3056, "Powers, Authorities, and Duties of United States Secret Service."

(4) *(k)(4).* Records maintained solely for statistical research or program evaluation purposes and that are not used to make decisions on the rights, benefits, or entitlement of an individual except for census records that may be disclosed under 13 U.S.C. 6, "Information for other Federal Departments and Agencies."

(5) *(k)(5).* Investigatory material compiled solely for the purpose of determining suitability, eligibility, or qualifications for Federal civilian employment, military service, Federal contracts, or access to classified information, but only to the extent such material would reveal the identity of a confidential source.

(i) This exemption permits protection of confidential sources used in background investigations, employment inquiries, and similar inquiries that are for personnel screening to determine suitability, eligibility, or qualifications.

(ii) This exemption is applicable not only to investigations conducted prior to the hiring of an employee, but it also applies to investigations conducted to determine continued employment suitability or eligibility.

(6) *(k)(6).* Testing or examination material used solely to determine individual qualifications for appointment or promotion in the Federal or military service, if the disclosure would compromise the objectivity or fairness of the test or examination process.

(7) *(k)(7).* Evaluation material used to determine potential for promotion in the Military Services, but only to the extent that the disclosure of such material would reveal the identity of a confidential source.

(b) *Promises of confidentiality.* (1) Only the identity of sources that have been given an express promise of confidentiality may be protected from disclosure under paragraphs (a)(1), (5), and (7) of this section. However, the identity of sources who were given implied promises of confidentiality in inquiries conducted before September 27, 1975, also may be protected from disclosure.

(2) Ensure promises of confidentiality are not automatically given but are used sparingly. Establish appropriate procedures and identify fully categories of individuals who may make such promises. Promises of confidentiality

shall be made only when they are essential to obtain the information sought (see 5 CFR part 736).

(c) *Access to records for which specific exemptions are claimed.* Deny the individual access only to those portions of the records for which the claimed exemption applies.

Subpart G—Publication Requirements

§ 310.30 Register publication.

(a) *What must be published in the Federal Register.* (1) Four types of documents relating to the Privacy Program must be published in the **Federal Register**:

(i) DoD Component Privacy Procedural rules;

(ii) DoD Component exemption rules; and

(iii) System notices.

(iv) Match notices (See subpart L to this part).

(2) See DoD 5025.1–M [9], "Directive Systems Procedures" and Administrative Instruction (AI) No. 102 [10], "Office of the Secretary of Defense Federal Register System" for information pertaining to the preparation of documents for publication in the **Federal Register**.

(b) *The effect of publication in the* **Federal Register**. Publication of a document in the **Federal Register** constitutes official public notice of the existence and content of the document.

(c) *DoD Component rules.* (1) Component Privacy Program procedures and Component exemption rules are subject to the rulemaking procedures prescribed in AI 102.

(2) System notices are not subject to formal rulemaking and are published in the **Federal Register** as "Notices," not rules.

(3) Privacy procedural and exemption rules are incorporated automatically into the CFR. System notices are not published in the CFR.

(d) *Submission of rules for publication.* (1) Submit to the DPO, ODA&M, all proposed rules implementing this part in proper format (see DoD 5025.1–M and AI 102) for publication in the **Federal Register**.

(2) This part has been published as a final rule in the **Federal Register**. Therefore, incorporate it into your Component rules by reference rather than by republication (see AI 102).

(3) DoD Component procedural rules that simply implement this Regulation need only be published as final rules in the **Federal Register** (see DoD 5025.1–M and AI 102). If the Component procedural rule supplements this part in any manner, they must be published as a proposed rule before being published as a final rule.

(4) Amendments to Component rules are submitted like the basic rules.

(5) The DPO submits the rules and amendments thereto to the **Federal Register** for publication.

(e) *Submission of exemption rules for publication.* (1) No system of records within the Department of Defense shall be considered exempt from any provision of this part until the exemption and the exemption rule for the system has been published as a final rule in the **Federal Register**.

(2) Submit exemption rules in proper format to the DPO. All exemption rules are coordinated with the Office of General Counsel, DoD. After coordination, the DPO shall submit the rules to the **Federal Register** for publication.

(3) Exemption rules require publication both as proposed rules and final rules (see AI 102).

(4) Section 310.31(b) discusses the content of an exemption rule.

(5) Submit amendments to exemption rules in the same manner used for establishing these rules.

(f) *Submission of system notices for publication.* (1) System notices are not subject to formal rulemaking procedures. However, the Privacy Act (5 U.S.C. 552a) requires a system notice be published in the **Federal Register** of the existence and character of a new or altered system of records. Until publication of the notice, DoD Components shall not begin to operate the system of records (i.e., collect and use the information). The notice procedures require:

(i) The system notice describes what kinds of records are in the system, on whom they are maintained, what uses are made of the records, and how an individual may access, or contest, the records contained in the system.

(ii) The public be given 30 days to comment on any proposed routine uses before any disclosures are made pursuant to the routine use; and

(iii) The notice contain the date on which the system shall become effective.

(2) Submit system nctices to the DPO in the **Federal Register** format (see AI 102 and Appendix E to this part). The DPO transmits the notices to the **Federal Register** for publication.

(3) Section 310.32 discusses the specific elements required in a system notice.

§ 310.31 Exemption rules.

(a) *General procedures.* Subpart F of this part provides the general guidance for establishing exemptions for systems of records.

(b) *Contents of exemption rules.* (1) Each exemption rule submitted for publication must contain the following:

(i) The record system identifier and title of the system for which the exemption is claimed. (See § 310.32(b) and (c));

(ii) The specific sections of the Privacy Act under which the exemption for the system is claimed (for example, 5 U.S.C. 552a(j)(2), 5 U.S.C. 552a(k)(3); or 5 U.S.C. 552a(k)(7);

(iii) The specific sections of the Privacy Act from which the system is to be exempted (for example, 5 U.S.C. 552a(c)(3), or 5 U.S.C. 552a(d)(l)–(5)) (see Appendix D)); and

(iv) The specific reasons why an exemption is being claimed from each section of the Act identified.

(2) Do not claim an exemption for classified material for individual systems of records. The blanket exemption applies. (see paragraph (c) of § 310.26).

§ 310.32 System notices.

(a) *Contents of the system notices.* (1) The following data captions are included in each system notice:

(i) Systems identifier. (see paragraph (b) of this section).

(ii) System name. (see paragraph (c) of this section).

(iii) System location. (see paragraph (d) of this section).

(iv) Categories of individuals covered by the system. (see paragraph (e) of this section).

(v) Categories of records in the system. (see paragraph (f) of this section).

(vi) Authority for maintenance of the system. (see paragraph (g) of this section).

(vii) Purpose(s). (see paragraph (h) of this section).

(viii) Routine uses of records maintained in the system, including categories of users and the purposes of such uses. (see paragraph (i) of this section).

(ix) Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system. (see paragraph (j) of this section).

(x) Systems manager(s) and address. (see paragraph (k) of this section).

(xi) Notification procedure. (see paragraph (l) of this section).

(xii) Record access procedures. (see paragraph (m) of this section).

(xiii) Contesting records procedures. (see paragraph (n) of this section).

(xiv) Record source categories. (see paragraph (o) of this section).

[9] See footnote 1 to § 310.1.

[10] See footnote 1 to § 310.1.

(xv) Exemptions claimed for the system. (see paragraph (p) of this section).

(2) The captions listed in paragraph (a)(1) of this Section have been mandated by the Office of Federal Register and must be used exactly as presented.

(3) A sample system notice is shown in Appendix E of this part.

(b) *System Identifier.* The system identifier must appear on all system notices and is limited to 21 positions, unless an exception is granted by the DPO, including Component code, file number and symbols, punctuation, and spacing.

(c) *System Name.* (1) The name of the system reasonably identifies the general purpose of the system and, if possible, the general categories of individuals involved.

(2) Use acronyms only parenthetically following the title or any portion thereof, such as, "Joint Uniform Military Pay System (JUMPS)." Do not use acronyms not commonly known unless they are preceded by an explanation.

(3) The system name may not exceed 55 character positions, unless an exception is granted by the DPO, including punctuation and spacing.

(4) The system name should not be the name of the database or the IT system if the name does not meet the criteria in paragraph (c)(1) of this section.

(d) *System Location.* (1) For systems maintained in a single location provide the exact office name, organizational identity, and address.

(2) For geographically or organizationally decentralized systems, specify each level of organization or element that maintains a segment of the system, to include their mailing address, or indicate the official mailing addresses are published as an Appendix to the Component's compilation of system of records notices, or provide an address where a complete listing of locations can be obtained.

(3) Use the standard U.S. Postal Service two-letter State abbreviation symbols and 9-digit Zip Codes for all domestic addresses.

(e) *Categories of individuals covered by the system.* (1) Set forth the specific categories of individuals to whom records in the system pertain in clear, easily understood, non-technical terms.

(2) Avoid the use of broad over-general descriptions, such as "all Army personnel" or "all military personnel" unless this actually reflects the category of individuals involved.

(f) *Categories of records in the system.* (1) Describe in clear, non-technical terms the types of records maintained in the system.

(2) Only documents actually maintained in the system of records shall be described, not source documents that are used only to collect data and then destroyed.

(g) *Authority for maintenance of system.* (1) Cite the specific provision of the Federal statute or E.O. that authorizes the maintenance of the system.

(2) Include with citations for statutes the popular names, when appropriate (for example, Section 2103 of title 51, United States Code, "Tea-Tasters Licensing Act"), and for E.O.s, the official title (for example, E.O. No. 9397, "Numbering System for Federal Accounts Relating to Individual Persons").

(3) If direct statutory authority or an Executive Order does not exist, indirect statutory authority may be cited if the authority requires the operation or administration of a program, the execution of which will require the collection and maintenance of a system of records.

(4) If direct or indirect authority does not exist, the Department of Defense, as well as the Army, Navy, and Air Force general "housekeeping" statutes (*i.e.*, 5 U.S.C. 301 ("Departmental Regulations"), 10 U.S.C. 3013 ("Secretary of the Army"), 5013 ("Secretary of the Navy"), and 8013 ("Secretary of the Air Force") may be cited if the Secretary, or those offices to which responsibility has been delegated, are required to collect and maintain systems of records in order to discharge assigned responsibilities. If the housekeeping statute is cited, the regulatory authority implementing the statute within the Department or Component also shall be identified.

(5) If the social security number is being collected and maintained, E.O. 9397 ("Numbering Systems for Federal Accounts Relating to Indivdiual Persons") shall be cited.

(h) *Purpose or Purposes.* (1) List the specific purposes for maintaining the system of records by the Component.

(2) All internal uses of the information within the Department or Component shall be identified. Such uses are the so-called "internal routine uses."

(i) *Routine Uses.* (1) Except as otherwise authorized by subpart E of this part, disclosure of information from a system of records to any person or entity outside the Department of Defense (see § 310.21(b)) may only be made pursuant to a routine use that has been established for the specific system of records. Such uses are the so-called "external routine uses."

(2) Each routine use shall include to whom the information is being disclosed and what use and purpose the information will be used. Routine uses shall be written as follows:

(i) "To * * *. [person or entity outside of DoD that will receive the information] to * * *. [what will be done with the information] for the purpose(s) of * * * [what objective is sought to be achieved]."

(ii) To the extent practicable, general statements, such as "to other Federal agencies as required" or "to any other appropriate Federal agency" shall be avoided.

(3) Blanket routine uses (Appendix to this part) have been adopted that apply to all Component system notices. The blanket routine uses appear at the beginning of each Component's compilation of its system notices.

(i) Each system notice shall contain a statement whether or not the blanket routine uses apply to the system.

(ii) Each notice may state that none of the blanket routine uses apply or that one or more do not apply.

(j) *Policies and Practices for Storing, Retiring, Accessing, Retaining, and Disposing of Records.* This caption is subdivided into four parts:

(1) *Storage.* Indicate the medium in which the records are maintained. (For example, a system may be "automated, maintained on compact disks, diskettes," "manual, maintained in paper files," or "hybrid, maintained in a combination of paper and automated form.") Storage does not refer to the container or facility in which the records are kept.

(2) *Retrievability.* Specify how the records are retrieved (for example, name, SSN, or some other unique personal identifier assigned the individual).

(3) *Safeguards.* Identify the system safeguards (such as storage in safes, vaults, locked cabinets or rooms, use of guards, visitor registers, personnel screening, or password protected IT systems). Also identify personnel who have access to the systems. Do not describe safeguards in such detail as to compromise system security.

(4) *Retention and Disposal.* Indicate how long the record is retained. When appropriate, also state the length of time the records are maintained by the Component, when they are transferred to a FRC, time of retention at the Records Center and when they are transferred to the National Archivist or are destroyed. A reference to a Component regulation without further detailed information is insufficient. If

records are eventually destroyed as opposed to being retired, identify the method of destruction (e.g., shredding, burning, pulping, etc).

(k) *System manager or managers and address.* (1) List the title and address of the official responsible for the management of the system.

(2) If the title of the specific official is unknown, such as for a local system, specify the local commander or office head as the systems manager.

(3) For geographically separated or organizationally decentralized activities for which individuals may deal directly with officials at each location in exercising their rights, list the position or duty title of each category of officials responsible for the system or a segment thereof.

(4) Do not include business or duty addresses if they are listed in the Component address directory.

(l) *Notification Procedures.* (1) Describe how an individual may determine if there are records pertaining to him or her in the system. The procedural rules may be cited, but include a brief procedural description of the needed data. Provide sufficient information in the notice to allow an individual to exercise his or her rights without referral to the formal rules.

(2) As a minimum, the caption shall include:

(i) The official title (normally the system manager) and official address to which the request is to be directed.

(ii) The specific information required to determine if there is a record of the individual in the system.

(iii) Identification of the offices through which the individual may obtain notification; and

(iv) A description of any proof of identity required. (see § 310.17(c)).

(3) When appropriate, the individual may be referred to a Component official who shall provide this information to him or her.

(m) *Record Access Procedures.* (1) Describe how an individual can gain access to the records pertaining to him or her in the system. The procedural rules may be cited, but include a brief procedural description of the needed data. Provide sufficient information in the notice to allow an individual to exercise his or her rights without referral to the formal rules.

(2) As a minimum, the caption shall include:

(i) The official title (normally the system manager) and official address to which the request is to be directed.

(ii) A description of any proof of identity required. (see § 310.17(c)).

(iii) When appropriate, the individual may be referred to a Component official who shall provide the records to him or her.

(n) *Contesting Record Procedures.* (1) Describe how an individual may contest the content of a record pertaining to him or her in the system.

(2) The detailed procedures for contesting a record need not be identified if the Component procedural rules are readily available to the public. (For example, "The Office of the Secretary of Defense" rules for contesting contents are contained in 32 CFR 311). All Component procedural rules are set forth at a Departmental public Web site (*http://www.defenselink.mil/privacy/cfr-rules.html*).

(3) The individual may also be referred to the system manager to determine these procedures.

(o) *Record Source Categories.* (1) Describe where the information contained in the system was obtained, e.g., the individual, other Component documentation, other Federal agencies, etc).

(2) Specific individuals or institutions need not be identified by name, particularly if these sources have been granted confidentiality. (see § 310.29(b)).

(p) *System Exempted From Certain Provisions of the Act.* (1) If no exemption has been claimed for the system, indicate "None."

(2) If there is an exemption claimed indicate specifically under which section of the Privacy Act it is claimed.

(3) Cite the CFR section containing the exemption rule for the system. For example, "An exemption rule for this system has been promulgated and published in 32 CFR 311").

(q) *Maintaining the Master DoD System Notice Registry.* (1) The DPO maintains a master registry of all DoD record systems notices.

(2) Coordinate with the DPO to ensure that all new systems are added to the master registry and all amendments and alterations are incorporated into the master registry.

(3) The DPO also posts all DoD system notices to a public Web site (see *http://www.defenselink.mil/privacy/notices*).

§ 310.33 New and altered record systems.

(a) *Criteria for a new record system.* (1) If a Component is maintaining a system of records as contemplated by § 310.10(a), and a system notice has not been published for it in the **Federal Register**, the Component shall establish a system notice consistent with the requirements of this subpart.

(2) If a notice for a system of records has been canceled or deleted but a determination is subsequently made that the system will be reinstated or reused, the system may not be operated (i.e., information collected or used) until a new notice is published in the **Federal Register**.

(b) *Criteria for an altered record system.* A system is considered altered whenever one of the following actions occurs or is proposed:

(1) A significant increase or change in the number or type of individuals about whom records are maintained.

(i) Only changes that alter significantly the character and purpose of the record system are considered alterations.

(ii) Increases in numbers of individuals due to normal growth are not considered alterations unless they truly alter the character and purpose of the system.

(iii) Increases that change significantly the scope of population covered (for example, expansion of a system of records covering a single command's enlisted personnel to include all of the Component's enlisted personnel would be considered an alteration).

(iv) A reduction in the number of individuals covered is not an alteration, but only an amendment. (see § 310.34(a)).

(v) All changes that add new categories of individuals to system coverage require a change to the "Categories of individuals covered by the system" caption of the notice (see § 310.32(e)) and may require changes to the "Purpose(s)" caption (see § 310.32(h)).

(2) An expansion in the types or categories of information maintained.

(i) The addition of any new category of records not described under the "Categories of Records in the System" caption is considered an alteration.

(ii) Adding a new data element that is clearly within the scope of the categories of records described in the existing notice is an amendment. (see § 310.34(a)). An amended notice may not be required if the data element is clearly covered by the record category identified in the existing system notice.

(iii) All changes under this criterion require a change to the "Categories of Records in the System" caption of the notice. (see § 310.32(f)).

(3) An alteration of how the records are organized or the manner in which the records are indexed and retrieved.

(i) The change must alter the nature of use or scope of the records involved (for example, combining records systems in a reorganization).

(ii) Any change under this criteria requires a change in the "Retrievability"

caption of the system notice. (see § 310.32(j)(2)).

(iii) If the records are no longer retrieved by name or personal identifier cancel the system notice. (see § 310.10(b)).

(4) A change in the purpose for which the information in the system is used.

(i) The new purpose must not be compatible with the existing purposes for which the system is maintained.

(ii) If the use is compatible and reasonably expected, there is no change in purpose and no alteration occurs.

(iii) Any change under this criterion requires a change in the "Purpose(s)" caption (see § 310.32(h)) and may require a change in the "Authority for maintenance of the system" caption (see § 310.32).

(5) Changes that alter the computer environment (such as changes to equipment configuration, software, or procedures) so as to create the potential for greater or easier access.

(i) Increasing the number of offices with direct access is an alteration.

(ii) Software applications, such as operating systems and system utilities, that provide for easier access are considered alterations.

(iii) The addition of an on-line capability to a previously batch-oriented system is an alteration.

(iv) The addition of peripheral devices such as tape devices, disk devices, card readers, printers, and similar devices to an existing IT system constitute an amendment if system security is preserved. (see § 310.34).

(v) Changes to existing equipment configuration with on-line capability need not be considered alterations to the system if:

(A) The change does not alter the present security posture; or

(B) The addition of terminals does not extend the capacity of the current operating system and existing security is preserved.

(vi) The connecting of two or more formerly independent automated systems or networks together creating a potential for greater access is an alteration.

(vii) Any change under this caption requires a change to the "Storage" caption element of the systems notice. (see § 310.32(j)(i)).

(c) *Reports of new and altered systems.* (1) Components shall submit a report for all new or altered systems to the DPO consistent with the requirements of this subpart and in the format prescribed at Appendix F of this part.

(i) Components shall include the following when submitting an alteration for a system notice for publication in the **Federal Register**:

(A) The system identifier and name. (see § 310.32(b) and (c)).

(B) A description of the nature and specific changes proposed.

(ii) The full text of the system notice need not be submitted if the master registry contains a current system notice for the system. (see § 310.32(q)).

(2) The DPO coordinates all reports of new and altered systems with the Office of the Assistant Secretary of Defense (Legislative Affairs), Department of Defense.

(3) The DPO prepares and sends a transmittal letter that forwards the report, as well as the new or altered system notice, to OMB and Congress.

(4) The DPO shall publish in the **Federal Register** a system notice for new or altered systems.

(d) *Time restrictions on the operation of a new or altered system.* (1) The reports, and the new or altered system notice, must be provided OMB and Congress at least 40 days prior to the operation of the new or altered system. The 40 day review period begins on the date the transmittal letters are signed and dated.

(2) The system notice must be published in the **Federal Register** before a Component begins to operate the system (i.e., collect and use the information). If the new system has routine uses or the altered system adds a new routine use, no records may be disclosed pursuant to the routine use until the public has had 30 days to comment on the proposed use.

(3) The time periods run concurrently.

(e) *Exemptions for new systems.* See § 310.30(e) for the procedures to follow in submitting exemption rules for a new system of records or for submitting an exemption rule for an existing system of records.

§ 310.34 Amendment and deletion of system notices.

(a) *Criteria for an amended system notice.* (1) Certain minor changes to published systems notices are considered amendments and not alterations. (see § 310.33(b)).

(2) Amendments do not require a report of an altered system (see § 310.33(c)), but must be published in the **Federal Register**.

(b) *System notices for amended systems.* Components shall include the following when submitting an amendment for a system notice for publication in the **Federal Register:**

(1) The system identifier and name. (see § 310.32 (b) and (c)).

(2) A description of the nature and specific changes proposed.

(3) The full text of the system notice need not be submitted if the master registry contains a current system notice for the system. (see § 310.32(q)).

(c) *Deletion of system notices.* (1) Whenever a system is discontinued, combined into another system, or determined no longer to be subject to this part, a deletion notice is required.

(2) The notice of deletion shall include:

(i) The system identification and name.

(ii) The reason for the deletion.

(3) When the system is eliminated through combination or merger, identify the successor system or systems in the deletion notice.

(d) *Submission of amendments and deletions for publication.* (1) Submit amendments and deletions to the DPO for transmittal to the **Federal Register** for publication.

(2) Multiple deletions and amendments may be combined into a single submission.

Subpart H—Training Requirements

§ 310.35 Statutory training requirements.

The Privacy Act (5 U.S.C. 552a) requires each Agency to establish rules of conduct for all persons involved in the design, development, operation, and maintenance of any system of record and to train these persons with respect to these rules.

§ 310.36 OMB training guidelines.

The OMB guidelines (OMB Privacy Guidelines, 40 FR 28948 (July 9, 1975) require all agencies additionally to:

(a) Instruct their personnel in their rules of conduct and other rules and procedures adopted in implementing the Act, and inform their personnel of the penalties for non-compliance.

(b) Incorporate training on the special requirements of the Act into both formal and informal (on-the-job) training programs.

§ 310.37 DoD training programs.

(a) The training shall include information regarding information privacy laws, regulations, policies and procedures governing the Department's collection, maintenance, use, or dissemination of personal information. The objective is to establish a culture of sensitivity to, and knowledge about, privacy issues involving individuals throughout the Department.

(b) To meet these training requirements, Components may establish three general levels of training for those persons, to include contractor personnel, who are involved in any way with the design, development, operation, or maintenance of privacy protected systems of records. These are:

(1) *Orientation.* Training that provides basic understanding of this part as it applies to the individual's job performance. This training shall be provided to personnel, as appropriate, and should be a prerequisite to all other levels of training.

(2) *Specialized training.* Training that provides information as to the application of specific provisions of this part to specialized areas of job performance. Personnel of particular concern include, but are not limited to medical, personnel, and intelligence specialists, finance officers, DoD personnel who may expected to deal with the news media or the public, special investigators, paperwork managers, and other specialists (reports, forms, records, and related functions), computer systems development personnel, computer systems operations personnel, statisticians dealing with personal data and program evaluations, contractors that will either operate systems of records on behalf of the Component or will have access to such systems incident to performing the contract, and anyone responsible for implementing or carrying out functions under this part.

(3) *Management.* Training designed to identify for responsible managers (such as, senior system managers, denial authorities, and decision-makers considerations that they shall take into account when making management decisions regarding operational programs and activities having privacy implications.

(c) Include Privacy Act training in other courses of training when appropriate. Stress individual responsibilities and advise individuals of their rights and responsibilities under this part.

§ 310.38 Training methodology and procedures.

(a) Each DoD Component is responsible for the development of training procedures and methodology.

(b) The DPO shall assist the Components in developing these training programs and may develop privacy training programs for use by all DoD Components.

(c) Components shall conduct training as frequently as believed necessary so that personnel who are responsible for or are in receipt of information protected by the Privacy Act (5 U.S.C. 552a) are sensitive to the requirements of this part, especially the access, use, and dissemination restrictions. Though not required, Components shall give consideration to whether annual certification should be mandated for certain personnel whose duties and responsibilities require daily interaction with privacy protected information.

(d) Components shall conduct training that reaches the widest possible audience. The use of Web-based training or video conferencing training are means by which such training can be conducted that has proven effective.

§ 310.39 Funding for training.

Each DoD Component shall fund its own privacy training program.

Subpart I—Reports

§ 310.40 Requirement for reports.

The DPO shall establish requirements for DoD Privacy Reports and the DoD Components may be required to provide data.

§ 310.41 Suspense for submission of reports.

The suspenses for submission of all reports shall be established by the DPO.

§ 310.42 Reports control symbol.

Any report established by this subpart in support of the Privacy Program shall be assigned Report Control Symbol DD–COMP(A)1379.

Subpart J—Inspections

§ 310.43 Privacy Act inspections.

During internal inspections, Component inspectors shall be alert for compliance with this part and for managerial, administrative, and operational problems associated with the implementation of the Defense Privacy Program. Programs shall be reviewed as frequently as considered necessary by Components or the Component Inspector General.

§ 310.44 Inspection reporting.

(a) Document the findings of the inspectors in official reports that are furnished the responsible Component officials. These reports, when appropriate, shall reflect overall assets of the Component Privacy Program inspected, or portion thereof, identify deficiencies, irregularities, and significant problems. Also document remedial actions taken to correct problems identified.

(b) Retain inspections reports and later follow-up reports in accordance with established records disposition standards. These reports shall be made available to the Privacy Program officials concerned upon request.

Subpart K—Privacy Act Violations

§ 310.45 Administrative remedies.

Any individual who believes he or she has a legitimate complaint or grievance against the Department of Defense or any DoD employee concerning any right granted by this part shall be permitted to seek relief through apprcpriate administrative channels.

§ 310.46 Civil actions.

An individual may file a civil suit against a DoD Component if the individual believes his or her rights under the Act have been violated. (see 5 U.S.C. 552a(g)).

§ 310.47 Civil remedies.

In addition to specific remedial actions, the Privacy Act provides for the payment of damages, court cost, and attorney fees in some cases.

§ 310.48 Criminal penalties.

(a) The Act also provides for criminal penalties. (see 5 U.S.C. 552a(i)). Any official or employee may be found guilty of a misdemeanor and fined not more than $5,000 if he or she willfully:

(1) Discloses information from a system of records, knowing dissemination is prohibited to anyone not entitled to receive the information. (see subpart E of this part); or

(2) Maintains a system of records without publishing the required public notice in the **Federal Register.** (see subpart G of this part).

(b) Any person who knowingly and willfully requests or obtains access to any record concerning another individual under false pretenses may be found guilty of misdemeanor and fined up to $5,000.

§ 310.49 Litigation status sheet.

Whenever a complaint citing the Privacy Act is filed in a U.S. District Court against the Department of Defense, a DoD Component, or any DoD employee, the responsible system manager shall notify the DPO. The litigation status sheet at Appendix H to this part provides a standard format for this notification. The initial litigation status sheet forwarded shall, as a minimum, provide the information required by items 1 through 6 of the status sheet. A revised litigation status sheet shall be provided at each stage of the litigation. When a court renders a formal opinion or judgment, copies of the judgment and opinion shall be provided to the DPO with the litigation status sheet reporting that judgment or opinion.

§ 310.50 Lost, stolen, or compromised information.

(a) When a loss, theft, or compromise of information occurs (see § 310.14), the Component shall immediately notify the DPO.

(b) The Component shall conduct an inquiry into the facts and circumstances surrounding the compromise and shall provide the DPO a copy of the final report.

(c) The Component shall determine what remedial actions must be taken to prevent a similar loss in the future. The Component shall also determine whether administrative or disciplinary action is warranted and appropriate for those individuals determined to be responsible for the loss, theft, or compromise.

Subpart L—Computer Matching Program Procedures

§ 310.51 General.

(a) A computer matching program covers two kinds of matching programs (see OMB Matching Guidelines, 54 FR 25818 (June 19, 1989)). If covered, the matches are subject to the requirements of this subpart. The covered programs are:

(1) Matches using records from Federal personnel or payroll systems of records, or

(2) Matches involving Federal benefits program if:

(i) To determine eligibility for a Federal benefit,

(ii) To determine compliance with benefit program requirements, or

(iii) To effect recovery of improper payments or delinquent debts under a Federal benefit program.

(b) The requirements of this part do not apply if matches are:

(1) Performed solely to produce aggregated statistical data without any personal identifiers. Personally identifying data can be used for purposes of conducting the match. However, the results of the match shall be stripped of any data that would identify an individual. Under no circumstances shall match results be used to take action against specific individuals.

(2) Performed to support research or statistical projects. Personally identifying data can be used for purposes of conducting the match and the match results may contain identifying data about individuals. However, the match results shall not be used to make a decision that affects the rights, benefits, or privileges of specific individuals.

(3) Performed by an agency, or a component thereof, whose principal function is the enforcement of criminal laws, subsequent to the initiation of a specific criminal or civil law enforcement investigation of a named individual or individuals.

(i) The match must flow from an investigation already underway which focuses on a named person or persons. "Fishing expeditions" in which the subjects are generically identified, such as "program beneficiaries" are not covered.

(ii) The match must be for the purpose of gathering evidence against the named individual or individuals.

(4) Performed for tax information-related purposes.

(5) Performed for routine administrative purposes using records relating to Federal personnel.

(i) The records to be used in the match must predominantly relate to Federal personnel (i.e., the percentage of records in the system of records that are about Federal personnel must be greater than any other category).

(ii) The purpose of the match must not be for purposes of taking any adverse financial, personnel, disciplinary, or other unfavorable action against an individual.

(6) Performed using only records from systems of records maintained by an agency.

(i) The purpose of the match must not be for purposes of taking any adverse financial, personnel, disciplinary, or other unfavorable action against an individual.

(ii) A match of DoD personnel using records in a system of records for purposes of identifying fraud, waste, and abuse is not covered.

(7) Performed to produce background checks for security clearances of Federal or contractor personnel or performed for foreign counter-intelligence purposes.

§ 310.52 Computer matching publication and review requirements.

(a) DoD Components shall identify the systems of records that will be used in the match to ensure the publication requirements of subpart G have been satisfied. If the match will require disclosure of records outside the Department of Defense, Components shall ensure a routine use has been established, and that the publication and review requirements met, before any disclosures are made (See subpart G of this part).

(b) If a computer matching program is contemplated, the DoD Component shall contact the DPO and provide information regarding the contemplated match. The DoD DPO shall ensure that any proposed computer matching program satisfies the requirements of the Privacy Act (5 U.S.C. 552a) and OMB Matching Guidelines (54 FR 25818 (June 19, 1989)).

(c) A computer matching agreement (CMA) shall be prepared by the Component, consistent with the requirements of § 310.53 of this subpart and submitted to the DPO. If the CMA satisfies the requirements of the Privacy Act (5 U.S.C. 552a) and OMB Matching Guidelines (54 FR 25818 (June 19, 1989)), as well as this subpart, it shall be forwarded to the Defense Data Integrity Board (DIB) for approval or disapproval.

(1) If the CMA is approved by the DIB, the DPO shall prepare and forward a report to both Houses of Congress and to OMB as required by, and consistent with, OMB Circular A–130, "Management of Federal Information Resources," February 8, 1996, as amended. Congress and OMB shall have 40 days to review and comment on the proposed match. Any comments received must be resolved before matching can take place.

(2) If the CMA is approved by the DIB, the DPO shall prepare and forward a match notice as required by OMB Circular A–130, "Management of Federal Information Resources," February 8, 1996, as amended, for publication in the **Federal Register**. The public shall be given 30 days to comment on the proposed match. Any comments received must be resolved before matching can take place.

§ 310.53 Computer matching agreements (CMAs).

(a) If a match is to be conducted internally within DoD, a memorandum of understanding (MOU) shall be prepared. It shall contain the same elements as a CMA, except as otherwise indicated in paragraph (b)(4)(ii) of this section.

(b) A CMA shall contain the following elements:

(1) *Purpose.* Why the match is being proposed and what will be achieved by conducting the match.

(2) *Legal authority.* What is the Federal or state statutory or regulatory basis for conducting the match. The Privacy Act does not constitute independent authority for matching. Other legal authority shall be identified.

(3) *Justification and expected results.* Explain why computer matching as opposed to some other administrative means is being proposed and what the expected results will be, including a specific estimate of any savings (see paragraph (b)(13) of this section).

(4) *Records description.* Identify:

(i) The system of records or non-Federal records. For DoD systems of record, provide the **Federal Register** citation for the system notice;

(ii) The specific routine use in the system notice if records are to be disclosed outside the Department of Defense (see § 310.22(c)). If records are disclosed within the Department of

Defense for an internal match, disclosures are permitted pursuant to paragraph (a) of § 310.22.

(iii) The number of records involved;

(iv) The data elements to be included in the match;

(v) The projected start and completion dates of the match. CMAs remain in effect for 18 months but can be renewed for an additional 12 months provided:

(A) The match will be conducted without any change, and

(B) Each party to the match certifies in writing that the program has been conducted in compliance with the CMA or MOU.

(vi) How frequently will the records be matched.

(5) *Records accuracy assessment.* Provide an assessment by the source and recipient agencies as to the quality of the information that will be used for the match. The poorer the quality, the more likely that the program will not be cost-effective.

(6) *Notice Procedures.* Identify what direct and indirect means will be used to inform individuals that matching will take place.

(i) *Direct notice.* Indicate whether the individual is advised that matching may be conducted when he or she applies for a Federal benefit program. Such an advisory should normally be part of the Privacy Act Statement that is contained in the application for benefits. Individual notice sometimes is provided by a separate notice that is furnished the individual upon receipt of the benefit.

(ii) *Indirect notice.* Indicate whether the individual is advised that matching may be conducted by constructive notice. Indirect or constructive notice is achieved by publication of a routine use in the **Federal Register** when the matching is between agencies or is achieved by publication of the match notice in the **Federal Register**.

(7) *Verification procedures.* Explain how information produced as a result of the match will be independently verified to ensure any adverse information obtained is that of the individual identified in the match.

(8) *Due process procedures.* Describe what procedures will be used to notify individuals of any adverse information uncovered as a result of the match and to give such individuals an opportunity to either explain the information or how to contest the information. No adverse action shall be taken against the individual until the due process procedures have been satisfied.

(i) Unless other statutory or regulatory authority provides for a longer period of time, the individual shall be given 30 calendar days from the date of the notice to respond to the notice.

(ii) If an individual contacts the agency within the notice period and indicates his or her acceptance of the validity of the adverse information, the agency may take final action. If the period expires without a response, the agency may take final action.

(iii) If the agency determines that there is a potentially significant effect on public health or safety, it may take appropriate action notwithstanding the due process provisions.

(9) *Security procedures.* Describe the administrative, technical, and physical safeguards that will be established to preserve and protect the privacy and confidentiality of the records involved in the match. The level of security must be commensurate with the level of the sensitivity of the records.

(10) *Records usage, duplication, and redisclosure restrictions.* Describe any restrictions imposed by the source agency or by statute or regulation on the collateral uses of the records. Recipient agencies may not use the records obtained for matching purposes for any other purpose absent a specific statutory requirement or where the disclosure is essential to the conduct of the matching program.

(11) *Disposition procedures.* Clearly state that the records used in the match will be retained only for the time required for conducting the match. Once the matching purpose has been achieved, the records will be destroyed unless the records must be retained as directed by other legal authority. Unless the source agency requests that the records be returned, identify the means by which destruction will occur, i.e., shredding, burning, electronic erasure, etc.

(12) *Comptroller General access.* Include a statement that the Comptroller General may have access to all records of the recipient agency to monitor or verify compliance with the terms of the CMA.

(13) *Cost-benefit analysis.* (i) A cost-benefit analysis shall be conducted for the proposed computer matching program unless:

(A) The Data Integrity Board waives the requirement, or

(B) The matching program is required by a specific statute.

(ii) The analysis must demonstrate that the program is likely to be cost-effective. This analysis is to ensure agencies are following sound management practices. The analysis provides an opportunity to examine the programs and to reject those that will only produce marginal results.

Appendix A to Part 310—Special Considerations for Safeguarding Personal Information Technology (IT) Systems

(See § 310.13 of subpart B)

A. General

1. The IT environment subjects personal information to special hazards as to unauthorized compromise, alteration, dissemination, and use. Therefore, special considerations must be given to safeguarding personal information in IT systems consistent with the requirements of DoD Directive 8500.1.[11]

2. Personal information must also be protected while it is being processed or accessed in computer environments outside the data processing installation (such as, remote job entry stations, terminal stations, minicomputers, microprocessors, and similar activities).

3. IT facilities authorized to process classified material have adequate procedures and security for the purposes of this part. However, all unclassified information subject to this part must be processed following the procedures used to process and access information designated "For Official Use Only" (see DoD 5200.1–R).

B. Risk Management and Safeguarding Standards

1. Establish administrative, technical, and physical safeguards that are adequate to protect the information against unauthorized disclosure, access, or misuse. (see OMB Circular A–130, "Management of Federal Information Resources."

2. Technical and physical safeguards alone will not protect against unintentional compromise due to errors, omissions, or poor procedures. Proper administrative controls generally provide cheaper and surer safeguards.

3. Tailor safeguards to the type of system, the nature of the information involved, and the specific threat to be countered.

C. Minimum Administrative Safeguards

The minimum safeguarding standards as set forth in § 310.13(b) apply to all personal data within any IT system. In addition:

1. Consider the following when establishing IT safeguards:

a. The sensitivity of the data being processed, stored and accessed.

b. The installation environment.

c. The risk of exposure.

d. The cost of the safeguard under consideration.

2. Label or designate media products containing personal information that do not contain classified material in such a manner as to alert those using or handling the information of the need for special protection. Designating products "For Official Use Only" in accordance with DoD 5200.1–R satisfies this requirement.

3. Mark and protect all computer products containing classified data in accordance with DoD 5200.1–R and DoD Directive 8500.1.

[11] See footnote 1 to § 310.1.

4. Mark and protect all computer products containing "For Official Use Only" material in accordance with DoD 5200.1–R.

5. Ensure safeguards for protected information stored at secondary sites are appropriate.

6. If there is a computer failure, restore all protected information being processed at the time of the failure using proper recovery procedures to ensure data integrity.

7. Train all IT personnel involved in processing information subject to this part in proper safeguarding procedures.

D. Physical Safeguards

1. For all unclassified facilities, areas, and devices that process information subject to this Regulation, establish physical safeguards that protect the information against reasonably identifiable threats that could result in unauthorized access or alteration.

2. Develop access procedures for unclassified computer rooms, tape libraries, micrographic facilities, decollating shops, product distribution areas, or other direct support areas that process or contain personal information subject to this part that control adequately access to these areas.

3. Safeguard on-line devices directly coupled to IT systems that contain or process information from systems of records to prevent unauthorized disclosure, use, or alteration.

4. Dispose of paper records following appropriate record destruction procedures.

E. Technical Safeguards

1. The use of encryption devices solely for the purpose of protecting unclassified personal information transmitted over secure communication circuits or during processing in computer systems is normally discouraged. However, when a comprehensive risk assessment indicates encryption is cost-effective, it may be used.

2. Remove personal data stored on magnetic storage media by methods that preclude reconstruction of the data.

3. Ensure personal information is not inadvertently disclosed as residue when transferring magnetic media between activities.

4. When it is necessary to provide dial-up remote access for the processing of personal information, control access by computer-verified passwords. Change passwords periodically or whenever compromise is known or suspected.

5. Normally the passwords shall give access only to those data elements (fields) required and not grant access to the entire database.

6. Do not totally rely on proprietary software products to protect personnel data during processing or storage.

F. Special Procedures

1. System Managers shall:

a. Notify the IT manager whenever personal information subject to this part is to be processed by an IT facility.

b. Prepare and submit for publication all system notices and amendments and alterations thereto. (see § 310.30(f)).

c. Identify to the IT manager those activities and individuals authorized access to the information and notify the manager of any changes to the access authorizations.

d. If required, IT managers shall ensure a Privacy Impact Assessment is prepared consistent with the requirements of 44 U.S.C. 3501 Note (section 208, "Privacy Provisions," E-Government Act of 2002).

2. IT Personnel shall:

a. Permit only authorized individuals access to the information.

b. Adhere to the established information protection procedures and rules of conduct.

c. Notify the system manager and IT manager whenever unauthorized personnel seek access to the information.

3. IT Installation Managers shall:

a. Maintain an inventory of all computer program applications used to process information subject to this part to include the identity of the systems of records involved.

b. Verify that requests for new programs or changes to existing programs have been published as required. (see paragraphs (a) and (b) of § 310.33).

c. Notify the system manager whenever changes to computer installations, communications networks, or any other changes in the IT environment occur that require an altered system report be submitted. (see § 310.33(b)).

G. Record Disposal

1. Dispose of records subject to this Regulation so as to prevent compromise. (see § 310.13(c)). Magnetic tapes or other magnetic medium may be cleared by degaussing, overwriting, or erasing.

2. Do not use respliced waste computer products containing personal data.

H. Risk Assessment for IT Installations That Process Personal Data

1. A separate risk assessment is not required for IT activities that process classified material. A simple certification by the appropriate IT official that the facility is cleared to process a given level of classified material (such as Top Secret, Secret, or Confidential) and that the procedures followed in processing "For Official Use Only" material are to be followed in processing personal data subject to this part is sufficient to meet the risk assessment requirement.

2. Prepare a formal risk assessment, as necessary, for each IT activity (to include those activities with terminals and IT devices) that processes personal information subject to this part and that do not process classified material.

3. Address the following in the risk assessment:

a. Identify the specific systems of records supported and determine their impact on the mission of the user.

b. Identify the threats (internal, external, and natural) to the data.

c. Determine the physical and operational (to include software) vulnerabilities.

d. Evaluate the relationships between vulnerabilities and threats.

e. Assess the impact of unauthorized disclosure or modification of the personal information.

f. Identify possible safeguards and their relationships to the threats to be countered.

g. Analyze the economic feasibility of adopting the identified safeguards.

h. Determine the safeguard to be used and develop implementation plans.

i. Discuss contingency plans including operational exercise plans.

j. Determine if procedures proposed are consistent with those identified in the system notices for system of records concerned.

k. Include a vulnerability assessment.

4. The risk assessment shall be reviewed by the appropriate Component officials.

5. Conduct a risk assessment at least as frequently as considered necessary or when there is a change to the installation, its hardware, software, or administrative procedures that increase or decrease the likelihood of compromise or present new threats to the information.

6. Protect the risk assessment, as it is a sensitive document.

7. Retain a copy of the risk assessment at the installation and make it available to appropriate inspectors and authorized personnel.

8. Include a summary of the current risk assessment with any report of new or altered system submitted in accordance with § 310.33(c), for any system from which information will be processed.

9. Complete a formal risk assessment at the beginning of the design phase for each new unclassified IT installation and before beginning the processing of personal data on a regular basis in existing IT facilities that do not process classified data.

Appendix B to Part 310—Sample Notification Letter

(See § 310.14 of subpart C)

Dear Mr. John Miller:

On January 1, 2006, a Department of Defense (DoD) laptop computer was stolen from the parked car of a DoD employee in Washington, D.C. after normal duty hours while the employee was running a personal errand. The laptop contained personally identifying information on 100 DoD employees who were participating in the xxx Program. The compromised information is the name, social security number, residential address, date of birth, office and home e-mail address, office and home telephone numbers of the Program participants.

The theft was immediately reported to local and DoD law enforcement authorities who are now conducting a joint inquiry into the loss.

We believe that the laptop was the target of the theft as opposed to any information that the laptop might contain. And because the information in the laptop was password protected, we also believe that the probability is low that the information will be acquired and used for an unlawful purpose. However, we cannot say with certainty that this might not occur. We therefore believe that you should consider taking such actions as are possible to protect against the potential that someone might use the information to steal your identity.

You should be guided by the actions recommended by the Federal Trade Commission at its Web site at *http://www.consumer.gov/idtheft/con_steps.htm.*

The FTC urges that you immediately place an initial fraud alert on your credit file. The Fraud alert is for a period of 90 days, during which, creditors are required to contact you before a new credit card is issued or an existing card changed. The site also provides other valuable information that can be taken now or in the future if problems should develop.

The DoD takes this loss very seriously and is reviewing its current policies and practices with a view of determining what must be changed to preclude a similar occurrence in the future. At a minimum, we will be providing additional training to personnel to ensure that they understand that personally identifiable information must at all times be treated in a manner that preserves and protects the confidentiality of the data.

We deeply regret and apologize for any inconvenience and concern this theft may cause you.

Appendix C to Part 310—DoD Blanket Routine Uses

(See paragraph (c) of § 310.22 of subpart E)

A. Routine Use—Law Enforcement

If a system of records maintained by a DoD Component to carry out its functions indicates a violation or potential violation of law, whether civil, criminal, or regulatory in nature, and whether arising by general statute or by regulation, rule, or order issued pursuant thereto, the relevant records in the system of records may be referred, as a routine use, to the agency concerned, whether Federal, State, local, or foreign, charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or implementing the statute, rule, regulation, or order issued pursuant thereto.

B. Routine Use—Disclosure When Requesting Information

A record from a system of records maintained by a Component may be disclosed as a routine use to a Federal, State, or local agency maintaining civil, criminal, or other relevant enforcement information or other pertinent information, such as current licenses, if necessary to obtain information relevant to a Component decision concerning the hiring or retention of an employee, the issuance of a security clearance, the letting of a contract, or the issuance of a license, grant, or other benefit.

C. Routine Use—Disclosure of Requested Information

A record from a system of records maintained by a Component may be disclosed to a Federal agency, in response to its request, in connection with the hiring or retention of an employee, the issuance of a security clearance, the reporting of an investigation of an employee, the letting of a contract, or the issuance of a license, grant, or other benefit by the requesting agency, to the extent that the information is relevant and necessary to the requesting agency's decision on the matter.

D. Routine Use—Congressional Inquiries

Disclosure from a system of records maintained by a Component may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

E. Routine Use—Private Relief Legislation

Relevant information contained in all systems of records of the Department of Defense published on or before August 22, 1975, may be disclosed to the Office of Management and Budget in connection with the review of private relief legislation as set forth in OMB Circular A–19 at any stage of the legislative coordination and clearance process as set forth in that circular.

F. Routine Use—Disclosures Required by International Agreements

A record from a system of records maintained by a Component may be disclosed to foreign law enforcement, security, investigatory, or administrative authorities to comply with requirements imposed by, or to claim rights conferred in, international agreements and arrangements, including those regulating the stationing and status in foreign countries of Department of Defense military and civilian personnel.

G. Routine Use—Disclosure to State and Local Taxing Authorities

Any information normally contained in Internal Revenue Service (IRS) Form W–2 which is maintained in a record from a system of records maintained by a Component may be disclosed to State and local taxing authorities with which the Secretary of the Treasury has entered into agreements under 5 U.S.C. 5516, 5517, 5520, and only to those State and local taxing authorities for which an employee or military member is or was subject to tax regardless of whether tax is or was withheld. This routine use is in accordance with Treasury Fiscal Requirements Manual Bulletin No. 76–07.

H. Routine Use—Disclosure to the Office of Personnel Management

A record from a system of records subject to the Privacy Act and maintained by a Component may be disclosed to the Office of Personnel Management (OPM) concerning information on pay and leave, benefits, retirement reductions, and any other information necessary for the OPM to carry out its legally authorized government-wide personnel management functions and studies.

I. Routine Use—Disclosure to the Department of Justice for Litigation

A record from a system of records maintained by a Component may be disclosed as a routine use to any component of the Department of Justice for the purpose of representing the Department of Defense, or any officer, employee or member of the Department in pending or potential litigation to which the record is pertinent.

J. Routine Use—Disclosure to Military Banking Facilities

Information as to current military addresses and assignments may be provided to military banking facilities who provide banking services overseas and who are reimbursed by the Government for certain checking and loan losses. For personnel separated, discharged, or retired from the Armed Forces, information as to last known residential or home of record address may be provided to the military banking facility upon certification by a banking facility officer that the facility has a returned or dishonored check negotiated by the individual or the individual has defaulted on a loan and that if restitution is not made by the individual, the U.S. Government will be liable for the losses the facility may incur.

K. Routine Use—Disclosure of Information to the General Services Administration

A record from a system of records maintained by a Component may be disclosed as a routine use to the General Services Administration (GSA) for the purpose of records management inspections conducted under authority of 44 U.S.C. 2904 and 2906.

L. Routine Use—Disclosure of Information to the National Archives and Records Administration

A record from a system of records maintained by a Component may be disclosed as a routine use to the National Archives and Records Administration (NARA) for the purpose of records management inspections conducted under authority of 44 U.S.C. 2904 and 2906.

M. Routine Use—Disclosure to the Merit Systems Protection Board

A record from a system of records maintained by a Component may be disclosed as a routine use to the Merit Systems Protection Board, including the Office of the Special Counsel, for the purpose of litigation, including administrative proceedings, appeals, special studies of the civil service and other merit systems, review of OPM or Component rules and regulations, investigation of alleged or possible prohibited personnel practices, including administrative proceedings involving any individual subject of a DoD investigation, and such other functions, promulgated in 5 U.S.C. 1205 and 1206 or as may be authorized by law.

N. Routine Use—Counterintelligence Purposes

A record from a system of records maintained by a Component may be disclosed as a routine use outside the Department of Defense (DoD) or the U.S. Government for the purpose of counterintelligence activities authorized by U.S. law or Executive Order or for the purpose of enforcing laws that protect the national security of the United States.

Appendix D to Part 310—Provisions of the Privacy Act From Which a General or Specific Exemption May Be Claimed

(See paragraph (d) of § 310.26)

Exemptions		Section of the Privacy Act
(j)(2)	(k) (1–7)	
No	No	(b)(1) Disclosures within the Department of Defense.
No	No	(2) Disclosures to the public.
No	No	(3) Disclosures for a "Routine Use."
No	No	(4) Disclosures to the Bureau of Census.
No	No	(5) Disclosures for statistical research and reporting.
No	No	(6) Disclosures to the NARA.
No	No	(7) Disclosures for law enforcement purposes.
No	No	(8) Disclosures under emergency circumstances.
No	No	(9) Disclosures to the Congress.
No	No	(10) Disclosures to the GAO.
No	No	(11) Disclosures pursuant to court orders.
No	No	(12) Disclosure to consumer reporting agencies.
No	No	(c)(1) Making disclosure accountings.
No	No	(2) Retaining disclosure accountings.
Yes	Yes	(c)(3) Making disclosure accounting available to the individual.
Yes	No	(c)(4) Informing prior recipients of corrections.
Yes	Yes	(d)(1) Individual access to records.
Yes	Yes	(2) Amending records.
Yes	Yes	(3) Review of the Component's refusal to amend a record.
Yes	Yes	(4) Disclosure of disputed information.
Yes	Yes	(5) Access to information compiled in anticipation of civil action.
Yes	Yes	(e)(1) Restrictions on collecting information.
Yes	No	(e)(2) Collecting directly from the individual.
Yes	No	(3) Informing individuals from whom information is requested.
No	No	(e)(4)(A) Describing the name and location of the system.
No	No	(B) Describing categories of individuals.
No	No	(C) Describing categories of records.
No	No	(D) Describing routine uses.
No	No	(E) Describing records management policies and practices.
No	No	(F) Identifying responsible officials.
Yes	Yes	(e)(4)(G) Procedures for determining if a system contains a record on an individual.
Yes	Yes	(H) Procedures for gaining access.
Yes	Yes	(I) Describing categories of information sources.
Yes	No	(e)(5) Standards of accuracy.
No	No	(e)(6) Validating records before disclosure.
No	No	(e)(7) Records of First Amendment activities.
No	No	(e)(8) Notification of disclosure under compulsory legal process.
No	No	(e)(9) Rules of conduct.
No	No	(e)(10) Administrative, technical, and physical safeguards.
No	No	(11) Notice for new and revised routine uses.
Yes	Yes	(f)(1) Rules for determining if an individual is subject of a record.
Yes	Yes	(f)(2) Rules for handling access requests.
Yes	Yes	(f)(3) Rules for granting access.
Yes	Yes	(f)(4) Rules for amending records.
Yes	Yes	(f)(5) Rules regarding fees.
Yes	No	(g)(1) Basis for civil action.
Yes	No	(g)(2) Basis for judicial review and remedies for refusal to amend.
Yes	No	(g)(3) Basis for judicial review and remedies for denial of access.
Yes	No	(g)(4) Basis for judicial review and remedies for other failure to comply.
Yes	No	(g)(5) Jurisdiction and time limits.
Yes	No	(h) Rights of legal guardians.
No	No	(i)(1) Criminal penalties for unauthorized disclosure.
No	No	(2) Criminal penalties for failure to publish.
No	No	(3) Criminal penalties for obtaining records under false pretenses.
Yes [1]	No	(j) Rulemaking requirement.
N/A	No	(j)(1) General exemption for the Central Intelligence Agency.
N/A	No	(j)(2) General exemption for criminal law enforcement records.
Yes	No	(k)(1) Exemption for classified material.
N/A	No	(k)(2) Exemption for law enforcement material.
Yes	N/A	(k)(3) Exemption for records pertaining to Presidential protection.
Yes	N/A	(k)(4) Exemption for statistical records.
Yes	N/A	(k)(5) Exemption for investigatory material compiled for determining suitability for employment or service.
Yes	N/A	(k)(6) Exemption for testing or examination material.
Yes	N/A	(k)(7) Exemption for promotion evaluation materials used by the Armed Forces.
Yes	No	(l)(1) Records stored in GSA records centers.
Yes	No	(l)(2) Records archived before September 27, 1975.
Yes	No	(l)(3) Records archived on or after September 27, 1975.
Yes	No	(m) Applicability to Government contractors.
Yes	No	(n) Mailing lists.
Yes [1]	No	(o) Reports on new systems.
Yes [1]	No	(p) Annual report.

[1] See paragraph (d) of § 310.26.

Appendix E to Part 310—Sample of New or Altered System of Records - Notice in Federal Register Format

(See paragraph (f) of § 310.30)

New System of Records Notice

DEPARTMENT OF DEFENSE

Office of the Secretary

Privacy Act of 1974; System of Records

AGENCY: Office of the Secretary, DoD.

ACTION: Notice to Add a System of Records.

SUMMARY: The Office of the Secretary of Defense proposes to add a system of records to its inventory of record systems subject to the Privacy Act of 1974 (5 U.S.C. 552a), as amended.

DATES: The changes will be effective on (insert date thirty days after publication in the **Federal Register**) unless comments are received that would result in a contrary determination.

ADDRESSES: Send comments to OSD Privacy Act Coordinator, Records Management Section, Washington Headquarters Services, 1155 Defense Pentagon, Washington, DC 20301–1155.

FOR FURTHER INFORMATION CONTACT: Ms. Mary Smith at (703) 000–0000.

SUPPLEMENTARY INFORMATION: The Office of the Secretary of Defense notices for systems of records subject to the Privacy Act of 1974 (5 U.S.C. 552a), as amended, have been published in the **Federal Register** and are available from the address above.

The proposed systems reports, as required by 5 U.S.C. 552a(r) of the Privacy Act of 1974, as amended, were submitted on January 20, 2006, to the House Committee on Government Reform, the Senate Committee on Homeland Security and Governmental Affairs, and the Office of Management and Budget (OMB) pursuant to paragraph 4c of Appendix I to OMB Circular No. A–130, "Federal Agency Responsibilities for Maintaining Records About Individuals," dated February 8, 1996 (February 20, 1996, 61 FR 6427).

Dated: February 1, 2006.

John Miller,

OSD Federal Register Liaison Officer, Department of Defense.

NSLRB 01

System name: The National Security Labor Relations Board (NSLRB).

System location: National Security Labor Relations Board (NSLRB), 1401 Wilson Boulevard, Arlington, VA 22209–2325.

Categories of individuals covered by the system: Current and former civilian Federal Government employees who have filed unfair labor practice charges, negotiability disputes, exceptions to arbitration awards, and impasses with the National Security Labor Relations Board (NSLRB) pursuant to the National Security Personnel System (NSPS).

Categories of records in the system: Documents relating to the proceedings before the Board, including the name of the individual initiating NSLRB action, statements of witnesses, reports of interviews and hearings, examiner's findings and recommendations, a copy of the original decision, and related correspondence and exhibits.

Authority for maintenance of the system: The National Defense Authorization Act for FY 2004, Public Law 108–136, Section 1101; 5 U.S.C. 9902(m), Labor Management Relations in the Department of Defense; and 5 CFR 9901.907, National Security Labor Relations Board.

Purpose(s): To establish a system of records that will document adjudication of unfair labor practice charges, negotiability disputes, exceptions to arbitration awards, and impasses filed with the National Security Labor Relations Board.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: In addition to those disclosures generally permitted under 5 U.S.C. 552a(b) of the Privacy Act, these records or information contained therein may specifically be disclosed outside the DoD as a routine use pursuant to 5 U.S.C. 552a(b)(3) as follows:

To The Federal Labor Relations Authority (FLRA) or the Equal Employment Opportunity Commission, when requested, for performance of functions authorized by law.

To disclose, in response to a request for discovery or for appearance of a witness, information that is relevant to the subject matter involved in a pending judicial or administrative proceeding.

To provide information to officials of labor organizations recognized under 5 U.S.C. 71 when relevant and necessary to their duties of exclusive representation concerning personnel policies, practices, and matters affecting work conditions.

The DoD 'Blanket Routine Uses' set forth at the beginning of OSD's compilation of systems of records notices apply to this system.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Records are maintained on electronic storage media and paper.

Retrievability: Records will be retrieved in the system by the following identifiers: assigned case number; individual's name; labor organizations filing the unfair labor practice charges; negotiability disputes; exceptions to arbitration awards; date, month, year or filing; complaint type; and the organizational component from which the complaint arises.

Safeguards: Records are maintained in a controlled facility. Physical entry is restricted by the use of locks, guards, and is accessible only to authorized personnel. Access to records is limited to person(s) responsible for servicing the record in performance of their official duties and who are properly screened and cleared for need-to-know. Access to computerized data is restricted by passwords, which are changed periodically.

Retention and disposal: Records are disposed of 5 years after final resolution of case.

System manager(s) and address: Executive Director, National Security Personnel System, Program Executive Office, 1401 Wilson Boulevard, Arlington, VA 22209–2325.

Notification procedure: Individuals seeking to determine whether this system of records contains information about themselves should address written inquiries to the Executive Director, National Security Personnel System, Program Executive Office, 1401 Wilson Boulevard, Arlington, VA 22209–2325.

Request should contain name; assigned case number; approximate case date (day, month, and year); case type; the names of the individuals and/or labor organizations filed the unfair labor practice charges; negotiability disputes; exceptions to arbitration awards; and impasses.

Record access procedures: Individuals seeking access to records about themselves contained in this system of records should address written inquiries to the Executive Director, National Security Personnel System, Program Executive Office, 1401 Wilson Boulevard, Arlington, VA 22209–2325.

Request should contain name; assigned case number; approximate case date (day, month, and year); case type; the names of the individuals and/or labor organizations filed the unfair labor practice charges; negotiability disputes; exceptions to arbitration awards; and impasses.

Contesting record procedures: The OSD's rules for accessing records, for contesting contents and appealing initial agency determinations are published in OSD Administrative Instruction No. 81; 32 CFR part 311; or may be obtained from the system manager.

Record source categories: Individual; other officials or employees; and departmental and other records containing information pertinent to the NSLRB action.

Exemptions claimed for the system: None.

Altered System of Record Notice

DEPARTMENT OF DEFENSE

Defense Logistics Agency

Privacy Act of 1974; Systems of Records

AGENCY: Defense Logistics Agency.

ACTION: Notice to Alter a System of Records.

SUMMARY: The Defense Logistics Agency proposes to alter a system of records notice in its inventory of record systems subject to the Privacy Act of 1974 (5 U.S.C. 552a), as amended. The alteration adds two routine uses, revises the purpose category, and makes other administrative changes to the system notice.

DATES: This action will be effective without further notice on (insert date thirty days after publication in the **Federal Register**) unless comments are received that would result in a contrary determination.

ADDRESSES: Send comments to the Privacy Act Officer, Headquarters, Defense Logistics Agency, ATTN: DSS–B, 8725 John J. Kingman Road, Suite 2533, Fort Belvoir, VA 22060–6221.

FOR FURTHER INFORMATION CONTACT: Ms. Mary Smith at (703) 000–0000.

SUPPLEMENTARY INFORMATION: The Defense Logistics Agency notices for systems of records subject to the Privacy Act of 1974 (5 U.S.C. 552a), as amended, have been

published in the **Federal Register** and are available from the address above.

The proposed system report, as required by 5 U.S.C. 552a(r) of the Privacy Act of 1974, as amended, was submitted on January 29, 2004, to the House Committee on Government Reform, the Senate Committee on Governmental Affairs, and the Office of Management and Budget (OMB) pursuant to paragraph 4c of Appendix I to OMB Circular No. A–130, "Federal Agency Responsibilities for Maintaining Records About Individuals", dated February 8, 1996 (February 20, 1996, 61 FR 6427).

Dated: February 2, 2004.

John Miller,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

S253.10 DLA–G

System name: Invention Disclosure . (February 22, 1993, 58 FR 10854).

Changes:

* * * * *

System identifier: Replace 'S253.10 DLA–G' with 'S100.70'.

* * * * *

Categories of individuals covered by the system: Delete 'to the DLA General Counsel' at the end of the sentence and replace with 'to DLA.'

* * * * *

Categories of records in the system: Delete entry and replace with 'Inventor's name, Social Security Number, address, and telephone numbers; descriptions of inventions; designs or drawings, as appropriate; evaluations of patentability; recommendations for employee awards; licensing documents; and similar records. Where patent protection is pursued by DLA, the file may also contain copies of applications, Letters Patent, and related materials.'

* * * * *

Authority for maintenance of the system: Delete entry and replace with '5 U.S.C. 301, Departmental Regulations; 5 U.S.C. 4502, General provisions; 10 U.S.C. 2320, Rights in technical data; 15 U.S.C. 3710b, Rewards for scientific, engineering, and technical personnel of federal agencies; 15 U.S.C. 3711d, Employee activities; 35 U.S.C. 181–185, Secrecy of Certain Inventions and Filing Applications in Foreign Countries; E.O. 9397 (SSN); and E.O. 10096 (Inventions Made by Government Employees) as amended by E.O. 10930.'

* * * * *

Purpose(s): Delete entry and replace with 'Data is maintained for making determinations regarding and recording DLA interest in the acquisition of patents; for documenting the patent process; and for documenting any rights of the inventor. The records may also be used in conjunction with the employee award program, where appropriate.'

* * * * *

Routine uses of records maintained in the system, including categories of users and the purpose of such uses: Add two new paragraphs 'To the U.S. Patent and Trademark Office for use in processing applications and performing related functions and responsibilities under Title 35 of the U.S. Code.

To foreign government patent offices for the purpose of securing foreign patent rights.'

* * * * *

Safeguards: Delete entry and replace with 'Access is limited to those individuals who require the records for the performance of their official duties. Paper records are maintained in buildings with controlled or monitored access. During non-duty hours, records are secured in locked or guarded buildings, locked offices, or guarded cabinets. The electronic records systems employ user identification and password or smart card technology protocols.'

* * * * *

Retention and disposal: Delete entry and replace with 'Records maintained by Headquarters and field Offices of Counsel are destroyed 26 years after file is closed. Records maintained by field level Offices of Counsel where patent applications are not prepared are destroyed 7 years after closure.'

* * * * *

Record source categories: Delete entry and replace with 'Inventors, reviewers, evaluators, officials of U.S. and foreign patent offices, and other persons having a direct interest in the file.'

* * * * *

S100.70

System name: Invention Disclosure.

System location: Office of the General Counsel, HQ DLA–DG, 8725 John J. Kingman Road, Stop 2533, Fort Belvoir, VA 22060–6221, and the offices of counsel of the DLA field activities. Official mailing addresses are published as an appendix to DLA's compilation of systems of records notices.

Categories of individuals covered by the system: Employees and military personnel assigned to DLA who have submitted invention disclosures to DLA.

Categories of records in the system: Inventor's name, Social Security Number, address, and telephone numbers; descriptions of inventions; designs or drawings, as appropriate; evaluations of patentability; recommendations for employee awards; licensing documents; and similar records. Where patent protection is pursued by DLA, the file may also contain copies of applications, Letters Patent, and related materials.

Authority for maintenance of the system: 5 U.S.C. 301, Departmental Regulations; 5 U.S.C. 4502, General provisions; 10 U.S.C. 2320, Rights in technical data; 15 U.S.C. 3710b, Rewards for scientific, engineering, and technical personnel of federal agencies; 15 U.S.C. 3711d, Employee activities; 35 U.S.C. 181–185, Secrecy of Certain Inventions and Filing Applications in Foreign Countries; E.O. 9397 (SSN); and E.O. 10096 (Inventions Made by Government Employees) as amended by E.O. 10930.

Purpose(s): Data is maintained for making determinations regarding and recording DLA interest in the acquisition of patents, for documenting the patent process, and for documenting any rights of the inventor. The records may also be used in conjunction with the employee award program, where appropriate.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: In addition to those disclosures generally permitted under 5 U.S.C. 552a(b) of the Privacy Act, these records or information contained therein may specifically be disclosed outside the DoD as a routine use pursuant to 5 U.S.C. 552a(b)(3) as follows:

To the U.S. Patent and Trademark Office for use in processing applications and performing related functions and responsibilities under Title 35 of the U. S. Code.

To foreign government patent offices for the purpose of securing foreign patent rights.

Information may be referred to other government agencies or to non-government agencies or to non-government personnel (including contractors or prospective contractors) having an identified interest in a particular invention and the Government's rights therein.

The DoD 'Blanket Routine Uses' set forth at the beginning of DLA's compilation of systems of records notices apply to this system.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Records are maintained in paper and computerized form.

Retrievability: Filed by names of inventors.

Safeguards: Access is limited to those individuals who require the records for the performance of their official duties. Paper records are maintained in buildings with controlled or monitored access. During non-duty hours, records are secured in locked or guarded buildings, locked offices, or guarded cabinets. The electronic records systems employ user identification and password or smart card technology protocols.

Retention and disposal: Records maintained by the HQ and field Offices of Counsel are destroyed 26 years after file is closed. Records maintained by field level Offices of Counsel where patent applications are not prepared are destroyed 7 years after closure.

System manager(s) and address: Office of the General Counsel, Headquarters, Defense Logistics Agency, ATTN: DG, 8725 John J. Kingman Road, Stop 2533, Fort Belvoir, VA 22060–6221.

Notification procedure: Individuals seeking to determine whether information about themselves is contained in this system should address written inquiries to the Privacy Officer, Headquarters, Defense Logistics Agency, ATTN: DSS–B, 8725 John J. Kingman Road, Stop 6220, Fort Belvoir, VA 22060–6221, or the Privacy Officers at DLA field activities. Official mailing addresses are published as an appendix to DLA's compilation of systems of records notices.

Record access procedures: Individuals seeking access to information about themselves contained in this system should address written inquiries to the Privacy Officer, Headquarters, Defense Logistics Agency, ATTN: DSS–B, 8725 John J. Kingman Road, Stop 6220, Fort Belvoir, VA 22060–6221, or the Privacy Officers at the

DLA field activities. Official mailing addresses are published as an appendix to DLA's compilation of systems of records notices.

Individuals should provide information that contains full name, current address and telephone numbers of requester.

For personal visits, each individual shall provide acceptable identification, e.g., driver's license or identification card.

Contesting record procedures: The DLA rules for accessing records, contesting contents, and appealing initial agency determinations are contained in 32 CFR part 323, or may be obtained from the Privacy Act Officer, Headquarters, Defense Logistics Agency, ATTN: DSS–B, 8725 John J. Kingman Road, Stop 6220, Fort Belvoir, VA 22060–6221.

Record source categories: Inventors, reviewers, evaluators, officials of U.S. and foreign patent offices, and other persons having a direct interest in the file.

Exemptions claimed for the system: None.

Appendix F to Part 310—Format for New or Altered System Report

(See paragraph (c) of § 310.33)

The report on a new or altered system shall consist of a transmittal letter, a narrative statement, and include supporting documentation.

A. Transmittal Letter

The transmittal letter shall be prepared by the Defense Privacy Office and shall contain assurances that the new or altered system does not duplicate any existing Component systems, DoD-wide systems or government-wide systems. The narrative statement, and the system notice, shall be attached thereto.

B. Narrative Statement

The statement shall include information on the following:

1. System Identifier and name;
2. Responsible official;
3. Purpose of establishing the system [for a new system only] or nature of the changes proposed for the system [for altered system only];
4. Authority for maintenance of the System;
5. Probable or potential effects on the privacy of individuals;
6. Is the system, in whole or part, being maintained by a contractor;
7. Steps taken to minimize risk of unauthorized access;
8. Routine use compatibility;
9. OMB information collection requirements; and
10. Supporting documentation.

Attachment 1—Sample Format for Narrative Statement

DEPARTMENT OF DEFENSE

[Component Name]

Narrative Statement on a [New/Altered] System of Records Under the Privacy Act of 1974

1. *System Identifier and Name.* This caption sets forth the identification and name of the system (see subparagraphs (b)(c) of § 310.32).

2. *Responsible Official.* The name, title, address, and telephone number of the official responsible for the report and to whom inquiries and comments about the report may be directed by Congress, the Office of Management and Budget, or the Defense Privacy Office.

3. *Purpose of establishing the system or nature of the changes proposed for the system:* Describe the purpose of the new system or how an existing system is being changed.

4. *Authority for maintenance of the system.* See paragraph (g) of § 310.32.

5. *Probable or potential effects on the privacy of individuals.* What effect, if any, will the new or altered system impact the personal privacy of the affected individuals.

6. *Is the system, in whole or in part, being maintained by a contractor.* If yes, Components shall ensure that the contract has incorporated the Federal Acquisition privacy clause (see paragraph (a)(1) of § 310.12).

7. *Steps taken to minimize risk of unauthorized access.* Describe actions taken to reduce the vulnerability of the system to potential threats. See Appendix A to this part.

8. *Routine use compatibility.* Provide assurances that any records contained in the system that are disclosed outside the DoD shall be for a use that is compatible with the purpose for which the record was collected. Advise whether or not the blanket routine uses apply to this system.

9. *OMB collection requirements.* If information is to be collected from members of the public, the requirements of reference ( ) apply and OMB must be advised.

10. *Supporting documentation.* The following are typical enclosures that may be required:

a. An advance copy of the system notice for a new or altered system that is proposed for publication.

b. An advance copy of a proposed exemption rule if the new or altered system is to be exempted in accordance with subpart F.

c. Any other supporting documentation that may be pertinent or helpful in understanding the need for the system or clarifying its intended use.

Attachment 2—Sample Narrative Statement

DEPARTMENT OF DEFENSE

Office of the Secretary

Narrative Statement on a New System of Records Under the Privacy Act of 1974

1. *System identifier and name:* NSLRB 01, entitled "The National Security Labor Relations Board (NSLRB)."

2. *Responsible official:* Mr. John Miller, National Security Labor Relations Board (NSLRB), 0000 Smith Boulevard, Arlington, VA 22209, Telephone (703) 000–0000.

3. *Purpose of establishing the system:* The Office of the Secretary of Defense is proposing to establish a system of records that will document adjudication of unfair labor practice charges, negotiability disputes, exceptions to arbitration awards, and impasses filed with the National Security Labor Relations Board.

4. *Authority for the maintenance of the system:* The National Defense Authorization Act for FY 2004, Public Law 108–136, Section 1101; 5 U.S.C. 9902(m), Labor Management Relations in the Department of Defense; and 5 CFR 9901.907, National Security Labor Relations Board.

5. *Probable or potential effects on the privacy of individuals:* None.

6. *Is the system, in whole or in part, being maintained by a contractor?* No.

7. *Steps taken to minimize risk of unauthorized access:* Records are maintained in a controlled facility. Physical entry is restricted by the use of locks, guards, and is accessible only to authorized personnel. Access to records is limited to person(s) responsible for servicing the record in performance of their official duties and who are properly screened and cleared for need-to-know. Access to computerized data is restricted by passwords, which are changed periodically.

8. *Routine use compatibility:* Any release of information contained in this system of records outside of the DoD will be compatible with purposes for which the information is collected and maintained. The DoD "Blanket Routine Uses" apply to this system of records.

9. *OMB information collection requirements:* None.

10. *Supporting documentation:* None.

Appendix G to Part 310—Sample Amendments for Deletions to System Notices in Federal Register Format

(See § 310.34)

Amendment of System Notice

DEPARTMENT OF DEFENSE

Department of the Army

Privacy Act of 1974; System of Records

AGENCY: Department of the Army, DoD.

ACTION: Notice to Amend a System of Records.

SUMMARY: The Department of the Army is proposing to amend a system of records notice in its existing inventory of records systems subject to the Privacy Act of 1974, (5 U.S.C. 552a), as amended.

DATES: This proposed action will be effective without further notice on (insert date thirty days after publication in **Federal Register**) unless comments are received which result in a contrary determination.

ADDRESSES: Department of the Army, Freedom of Information/Privacy Division, U.S. Army Records Management and Declassification Agency, ATTN: AHRC–PDD–FPZ, 7701 Telegraph Road, Casey Building, Suite 144, Alexandria, VA 22325–3905.

FOR FURTHER INFORMATION CONTACT: Ms. Mary Smith at (703) 000–0000.

SUPPLEMENTARY INFORMATION: The Department of the Army systems of records notices subject to the Privacy Act of 1974, (5 U.S.C. 552a), as amended, have been published in the **Federal Register** and are available from the address above.

The specific changes to the records systems being amended are set forth below followed

by the notices, as amended, published in their entirety. The proposed amendments are not within the purview of subsection (r) of the Privacy Act of 1974, (5 U.S.C. 552a), as amended, which requires the submission of a new or altered system report.

Dated: February 3, 2006.

John Miller,

OSD Federal Register Liaison Officer, Department of Defense.

A0055 USEUCOM

System name: Europe Command Travel Clearance Records (August 23, 2004, 69 FR 51817).

Changes:

* * * * *

System name: Delete system identifier and replace with: "A0055 USEUCOM DoD".

* * * * *

A0055 USEUCOM DoD

System name: Europe Command Travel Clearance Records.

System location: Headquarters, United States European Command, Computer Network Operations Center, Building 2324, P.O. Box 1000, APO AE 09131–1000.

Categories of individuals covered by the system: Military, DoD civilians, and non-DoD personnel traveling under DoD sponsorship (e.g., contractors, foreign nationals and dependents) and includes temporary travelers within the United States European Command's (USEUCOM) area of responsibility as define by the DoD Foreign Clearance Guide Program.

Categories of records in the system: Travel requests, which contain the individual's name; rank/pay grade; Social Security Number; military branch or department; passport number; Visa Number; office address and telephone number, official and personal e-mail address, detailed information on sites to be visited, visitation dates and purpose of visit.

Authority for the maintenance of the system: 10 U.S.C. 3013, Secretary of the Army; 10 U.S.C. 5013, Secretary of the Navy; 10 U.S.C. 8013, Secretary of the Air Force; DoD 4500.54–G, Department of Defense Foreign Clearance Guide; Public Law 99–399, Omnibus Diplomatic Security and Antiterrorism Act of 1986; 22 U.S.C. 4801, 4802, and 4805, Foreign Relations and Intercourse; E.O.12333, United States Intelligence Activities; Army Regulation 55–46, Travel Overseas; and E.O. 9397 (SSN).

Purpose(s): To provide the DoD with an automated system to clear and audit travel within the United States European Command's area of responsibility and to ensure compliance with the specific clearance requirements outline in the DoD Foreign Clearance Guide; to provide individual travelers with intelligence and travel warnings; and to provide the Defense Attach and other DoD authorized officials with information necessary to verify official travel by DoD personnel.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: In addition to those disclosures generally permitted under 5 U.S.C. 552a(b) of the Privacy Act, these records or information contained therein may specifically be disclosed outside the DoD as a routine use pursuant to 5 U.S.C. 552a(b)(3) as follows:

To the Department of State Regional Security Officer, U.S. Embassy officials, and foreign police for the purpose of coordinating security support for DoD travelers.

The DoD 'Blanket Routine Uses' set forth at the beginning of the Army's compilation of systems of records notices also apply to this system.

Policies and practices for storing, retiring, accessing, retaining, and disposing of records:

Storage: Electronic storage media.

Retrievability: Retrieved by individual's surname, Social Security Number and/or passport number.

Safeguards: Electronic records are located in the United States European Command's Theater Requirements Automated Clearance System (TRACS) computer database with built in safeguards. Computerized records are maintained in controlled areas accessible only to authorized personnel with an official need to know access. In addition, automated files are password protected and in compliance with the applicable laws and regulations. Another built in safeguard of the system is records are access to the data through secure network.

Retention and disposal: Records are destroyed 3 months after travel is completed.

System manager(s) and address: Special Assistant for Security Matters, Headquarters, United States European Command, Unit 30400, P.O. Box 1000, APO AE 09131–1000.

Notification procedures: Individuals seeking to determine whether information about themselves is contained in this system of records should address written inquiries to the Special Assistant for Security Matters, Headquarters, United States European Command, Unit 30400, P.O. Box 1000, APO AE 09131–1000.

Requests should contain individual's full name, Social Security Number, and/or passport number.

Record access procedures: Individuals seeking to access information about themselves that is contained in this system of records should address written inquiries to the Special Assistant for Security Matters, Headquarters, United States European Command, Unit 30400, P.O. Box 1000, APO AE 09131–1000.

Requests should contain individual's full name, Social Security Number, and/or passport number.

Contesting record procedures: The Army's rules for accessing records and for contesting contents and appealing initial agency determinations are contained in Army Regulation 340–21; 32 CFR part 505; or may be obtained from the system manager.

Record source categories: From individuals.

Exemptions claimed for the system: None.

Deletion of System Notice

DEPARTMENT OF DEFENSE

Office of the Secretary

Privacy Act of 1974; System of Records

AGENCY: Office of the Secretary, DoD.

ACTION: Notice to Delete Systems of Records.

SUMMARY: The Office of the Secretary of Defense is deleting a system of records notice from its existing inventory of records systems subject to the Privacy Act of 1974, (5 U.S.C. 552a), as amended.

DATES: This proposed action will be effective without further notice on (insert date thirty days after publication in **Federal Register**) unless comments are received which result in a contrary determination.

ADDRESSES: OSD Privacy Act Coordinator, Records Management Section, Washington Headquarters Services, 1155 Defense Pentagon, Washington, DC 20301–1155.

FOR FURTHER INFORMATION CONTACT: Ms. Mary Smith at (703) 000–0000.

SUPPLEMENTARY INFORMATION: The Office of the Secretary of Defense systems of records notices subject to the Privacy Act of 1974 (5 U.S.C. 552a), as amended, have been published in the **Federal Register** and are available from the address above.

The specific changes to the records system being amended are set forth below followed by the notice, as amended, published in its entirety. The proposed amendments are not within the purview of subsection (r) of the Privacy Act of 1974 (5 U.S.C. 552a), as amended, which requires the submission of a new or altered system report.

Dated: April 2, 2006.

John Miller,

OSD Federal Register Liaison Officer, Department of Defense.

DODDS 27

System name: DoD Domestic and Elementary School Employee File (May 9, 2003, 68 FR 24935).

Reason: The records contained in this system of records are covered by OPM/GOVT–1 (General Personnel Records), a government wide system notice.

Appendix H to Part 310–Litigation Status Sheet

(See § 310.49)

Litigation Status Sheet

1. Case Number [1]
2. Requester
3. Document Title or Description [2]
4. Litigation
   a. Date Complaint Filed
   b. Court
   c. Case File Number [1]
5. Defendants (DoD Component and individual)
6. Remarks (brief explanation of what the case is about)

[1] Number used by the Component for reference purposes.

[2] Indicate the nature of the case, such as, "Denial of access," "Refusal to amend," "Incorrect records," or other violations of the Act (specify).

7. Court Action
a. Court's Finding
b. Disciplinary Action (as appropriate)
8. Appeal (as appropriate)
a. Date Complaint Filed
b. Court
c. Case File Number
d. Court's Finding
e. Disciplinary Action (as appropriate)

Dated: June 29, 2006.

L.M. Bynum,

OSD Federal Register Liaison Officer, DOD.

[FR Doc. 06–6011 Filed 7–13–06; 8:45 am]

BILLING CODE 5001–06–P

Federal Register

Friday,
July 14, 2006

Part V

Environmental Protection Agency

40 CFR Part 63

National Emission Standards for Hazardous Air Pollutants: Miscellaneous Organic Chemical Manufacturing; Final Rule

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 63

[EPA–HQ–OAR–2003–0121; FRL–8190–5]

RIN 2060–AM43

National Emission Standards for Hazardous Air Pollutants: Miscellaneous Organic Chemical Manufacturing.

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule; amendments.

SUMMARY: On November 10, 2003, EPA promulgated national emission standards for hazardous air pollutants for miscellaneous organic chemical manufacturing. Several petitions for judicial review of the final rule were filed in the United States Court of Appeals for the District of Columbia Circuit. Petitioners expressed concern with various requirements in the final rule, including applicability of specific operations and processes, the leak detection and repair requirements for connectors, criteria to define affected wastewater streams requiring control, control requirements for wastewater streams that contain only soluble hazardous air pollutants, the definition of "process condensers," and recordkeeping requirements for Group 2 batch process vents. In this action, EPA amends the final rule to address these issues and to correct inconsistencies that have been discovered during the review process.

DATES: *Effective Date:* July 14, 2006.

ADDRESSES: EPA has established a docket for this action under Docket ID No. EPA–HQ–OAR–2003–0121. All documents in the docket are listed on the *www.regulations.gov* Web site. Although listed in the index, some information is not publicly available, e.g., confidential business information or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically through *www.regulations.gov* or in hard copy at the Air and Radiation Docket, Docket ID No. EPA–HQ–OAR–2003–0121, EPA/DC, EPA West, Room B–102, 1301 Constitution Ave., NW., Washington, DC. The Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is (202) 566–1744, and the telephone number for the Air and Radiation Docket is (202) 566–1742.

FOR FURTHER INFORMATION CONTACT: Mr. Randy McDonald, Office of Air Quality Planning and Standards, Sector Policies and Programs Division, Coatings and Chemicals Group (E143–01), U.S. EPA, Research Triangle Park, NC 27711, telephone number: (919) 541–5402, fax number: (919) 541–0246; e-mail address: *mcdonald.randy@epa.gov*.

SUPPLEMENTARY INFORMATION:

Regulated Entities. Categories and entities potentially regulated by this action include:

Category	NAICS code [1]	Examples of regulated entities
Industry	3251, 3252, 3253, 3254, 3255, 3256, and 3259, with several exceptions.	Producers of specialty organic chemicals, explosives, certain polymers and resins, and certain pesticide intermediates.

[1] North American Industry Classification System.

This table is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be regulated by this action. To determine whether your facility is regulated by this action, you should examine the applicability criteria in 40 CFR 63.2435 of subpart FFFF (national emission standards for hazardous air pollutants (NESHAP) for miscellaneous organic chemical manufacturing). If you have any questions regarding the applicability of this action to a particular entity, consult either the air permit authority for the entity or your EPA regional representative as listed in 40 CFR 63.13 of subpart A (General Provisions).

World Wide Web (WWW). In addition to being available in the docket, an electronic copy of the final action will also available on the WWW through the Technology Transfer Network (TTN). Following signature, a copy of the final action will be posted on the TTN's policy and guidance page for newly proposed or promulgated rules at *http://www.epa.gov/ttn/oarpg/*. The TTN provides information and technology exchange in various areas of air pollution control.

Judicial Review. Under section 307(b)(1) of the Clean Air Act (CAA), judicial review of the final amendments is available only by filing a petition for review in the United States Court of Appeals for the District of Columbia Circuit by September 12, 2006. Under section 307(d)(7)(B) of the CAA, only an objection to the final amendments that was raised with reasonable specificity during the period for public comment may be raised during judicial review. Moreover, under section 307(b)(2) of the CAA, the requirements established by the final amendments may not be challenged separately in any civil or criminal proceedings brought by EPA to enforce these requirements.

Section 307(d)(7)(B) of the CAA further provides that "[o]nly an objection to a rule or procedure which was raised with reasonable specificity during the period for public comment (including any public hearing) may be raised during judicial review." This section also provides a mechanism for us to convene a proceeding for reconsideration, "[i]f the person raising an objection can demonstrate to the EPA that it was impracticable to raise such objection within [the period for public comment] or if the grounds for such objection arose after the period for public comment (but within the time specified for judicial review) and if such objection is of central relevance to the outcome of the rule." Any person seeking to make such a demonstration to us should submit a Petition for Reconsideration to the Office of the Administrator, U.S. EPA, Room 3000, Ariel Rios Building, 1200 Pennsylvania Ave., NW., Washington, DC 20460, with a copy to both the person(s) listed in the preceding **FOR FURTHER INFORMATION CONTACT** section, and the Associate General Counsel for the Air and Radiation Law Office, Office of General Counsel (Mail Code 2344A), U.S. EPA, 1200 Pennsylvania Ave., NW., Washington, DC 20004.

Organization of This Document. The information presented in this preamble is organized as follows:

I. Background

On November 10, 2003, we promulgated NESHAP for miscellaneous organic chemical (MON) manufacturing as subpart FFFF of 40 CFR part 63. Petitions for review of the MON were filed in the United States Court of Appeals for the District of Columbia Circuit by American Chemistry Council, Eastman Chemical Company, Clariant LSM (America), Inc., Rohm and Haas Company, General Electric Company, Coke Oven Environmental Task Force, and Lyondell Chemical Company (collectively "Petitioners").[1] These matters were consolidated into *American Chemical Council, et al.* v. *EPA*, No. 04–1004, 04–1005, 04–1008, 04–1009, 04–1010, 04–1012, 04–1013 (District of Columbia Circuit). Issues raised by the petitioners included applicability of the final rule; leak detection and repair requirements for connectors; definitions of process condenser, continuous process vent, and Group 1 wastewater; treatment requirements for wastewater that is Group 1 only for soluble hazardous air pollutants (SHAP); recordkeeping for Group 2 batch process vents; and notification requirements for Group 2 emission points that become Group 1 emission points. In early October 2005, the parties signed a settlement agreement. Pursuant to section 113(g) of the CAA, notice of the settlement was published in the **Federal Register** on October 26, 2005 (70 FR 61814).

On December 8, 2005, we proposed amendments to subpart FFFF to address the issues raised by Petitioners and made other corrections and clarifications to ensure that the final rule is implemented as intended. We received a total of 20 comment letters from 18 stakeholders. Most of the letters were from companies that will have affected sources under subpart FFFF, three were from industry trade associations, three were from environmental consulting firms, and one was from a law firm on behalf of some of the petitioners. The final amendments reflect full consideration of the petition, and all of the public comments we received on the proposed amendments.

II. Summary of the Final Amendments

The final amendments clarify applicability of subpart FFFF, provide additional compliance options, modify initial and continuous compliance requirements, and simplify recordkeeping and reporting requirements. Significant changes are summarized in the sections below. Additional clarifications and corrections are highlighted in Table 1 to this preamble and in the preamble to the proposed amendments (70 FR 73098, December 8, 2005). Collectively, these provisions will reduce the burden associated with demonstrating compliance without affecting emissions control or the ability of enforcement agencies to ensure compliance.

A. Applicability

The final amendments exempt carbon monoxide production and additional polymer finishing operations from subpart FFFF. In the definition of the term "miscellaneous organic chemical manufacturing process," the final amendments clarify the end point of processes that produce solid products.

B. Emission Limits, Compliance Options, and Initial Compliance Requirements

Many of the changes in the final amendments involve requirements for process vents. For example, Table 2 in the amended rule allows floating roof technology to control batch process vent emissions from process tanks. The final amendments also change the definition of the term "continuous process vent" to include all continuous operations, not just reactors, air oxidation reactors, and distillation units. A corresponding change has been made in the definition of the term "surge control vessel." Another change to the definition of the term "continuous process vent" requires determinations of continuous process vents prior to combination with emissions from another miscellaneous organic chemical manufacturing process unit (MCPU).

Table 3 in the final rule currently requires control of "particulate matter (PM) hazardous air pollutant (HAP)" emissions from process vents at new sources. The amendments replace requirements for "PM HAP" with requirements for "HAP metals." One of the related changes is that the emissions threshold above which control is required has been changed from 400 pounds per year (lb/yr) of PM HAP to 150 lb/yr of HAP metals. Another change in the amended rule is that Method 29 of appendix A of 40 CFR part 60 is allowed as an alternative to Method 5 of appendix A of 40 CFR part 60.

We have amended the definition of the term "process condenser" to clarify what it means for a condenser to be "integral to the MCPU." Under the current definition, condensers that receive vapor streams from batch operations in an MCPU at temperatures below the boiling or bubble point of the HAP are not process condensers. The amended definition includes most of these condensers, provided they are capable of and normally used for the purpose of recovering chemicals for fuel value, use, or reuse, or for sale for fuel value, use, or reuse. Exceptions are provided for condensers that are considered to be part of recovery devices.

The final amendments specify corrected procedures for using specified equations to calculate uncontrolled emissions from process condensers. The revised procedures require consideration of the condenser exit gas temperature and composition of the condensate. Alternatively, uncontrolled emissions from process condensers may be estimated based on engineering assessments under the same conditions as the final rule currently allows for estimating emissions directly from the process vessels. The final amendments also specify initial compliance requirements for process condensers. You must either measure the exhaust gas temperature and show it is less than the boiling or bubble point of the substance in the process vessel or perform a material balance around the vessel and condenser to show that at least 99 percent of the material vaporized while boiling is condensed.

The final amendments specify that biofilters are an option for complying with the 95 percent reduction emission limit for batch process vents (see Table

[1] The Fertilizer Institute and Arteva Specialties S. 'ar.l also filed petitions for review but voluntarily withdrew their petitions.

2 to subpart FFFF of part 63). Related amendments in 40 CFR 63.2460(c)(9) specify initial and continuous compliance requirements for biofilters. A performance test must be conducted to demonstrate initial compliance. Either temperature or organic monitoring devices are required to demonstrate continuous compliance. Average temperatures must be determined if you elect to measure temperature at several locations in the biofilter bed. As for other types of control devices, the amendments related to biofilters also cross-reference the testing and continuous parameter monitoring system(s) (CPMS) requirements in 40 CFR part 63, subpart SS.

The final amendments add a compliance option in Table 3 of subpart FFFF of 40 CFR part 63 for hydrogen halide and halogen HAP emissions from process vents. A halogen atom mass flow rate emission limit of 0.45 kilograms per hour (kg/hr) is allowed as an alternative to the current emission limits that require either a 99 percent reduction or control to an outlet concentration limit of 20 parts per million by volume (ppmv). This mass emission limit applies to each individual continuous process vent and to the collection of all batch process vents within an MCPU.

The final amendments change several of the requirements for wastewater. The concentrations and mass discharge rates of partially soluble HAP (PSHAP), SHAP, and total HAP that define a Group 1 wastewater stream have been changed. The definition of the term "point of determination" (POD) has been changed to specify that the point where effluent is discharged from a scrubber or other control device is a POD. Methyl ethyl ketone has been removed from the list of PSHAP in Table 8 to subpart FFFF of part 63.[2] A new 40 CFR 63.2485(o) requires the CPMS records specified in 40 CFR 63.998(c)(1) in addition to the records specified in 40 CFR 63.147(d) for non-flare control devices. Finally, a new compliance option is included in 40 CFR 63.2485(n) that allows certain waste management units in a biotreatment system to be uncovered if the wastewater being treated is Group 1 only for SHAP. This option also allows lift stations with a volume larger than 10,000 gallons to have openings sized as necessary for proper venting as an alternative to the currently specified vent pipe dimensions in 40 CFR 63.136(e)(2)(ii)(A). Amendments in 40 CFR 63.2485(n) also added initial compliance procedures that are specific to the new compliance option.

For equipment leaks, the final amendments allow compliance with 40 CFR part 63, subpart H as an alternative to compliance with either 40 CFR part 63, subpart UU or 40 CFR part 65, subpart F. The amendments eliminate the option for existing sources of complying with 40 CFR part 63, subpart TT. However, the final amendments also allow two exceptions to the three available options. First, for pumps at an existing affected source, you may elect to comply with a leak definition of 10,000 parts per million (ppm) as an alternative to the leak definitions specified in the cross-referenced rules. Second, for connectors in gas service or light liquid service at any affected source, you may elect to comply with the requirements for connectors in heavy liquid service. The final amendments also specify that bench-scale processes are exempt from the equipment leak requirements.

The final amendments eliminate reporting requirements for offsite cleaning and reloading facilities that control emissions from rail cars and tank trucks that are used in vapor balancing for storage tanks at the affected source. For an offsite cleaning or reloading facility that is subject to any other NESHAP under 40 CFR part 63, the final amendments specify that compliance with the monitoring, recordkeeping, and reporting requirements in the other rule demonstrates compliance with the requirements in subpart FFFF of 40 CFR part 63.

Final amendments to 40 CFR 63.2445 clarify that an initial compliance demonstration must be conducted within 150 days after any of the following process changes: A Group 2 emission point becomes a Group 1 emission point, hydrogen halide and halogen HAP emissions from the sum of all process vents in a process increase to more than 1,000 lb/yr, or a small control device for process vent or transfer rack emissions becomes a large control device.

C. Monitoring Requirements

The final amendments include several changes to the parameter monitoring requirements specified in 40 CFR 63.2450(k). For halogen scrubbers, monitoring caustic strength of the effluent is allowed as an alternative to measuring pH. If the halogen scrubber controls emissions only from batch process vents, the caustic strength or pH may be measured daily instead of continuously. For absorbers that control organic compounds and use water as the scrubbing fluid, liquid and gas flow rates may be monitored instead of the parameters in the current rule. The periodic verification option for control devices that control less than 1 ton per year of HAP is now allowed for all control devices, not just those that control only batch process vents.

D. Recordkeeping and Reporting

The final amendments reduce or eliminate recordkeeping requirements in 40 CFR 63.2525(e) for Group 2 batch process vents. Recordkeeping is eliminated for Group 2 batch process vents that are always controlled with either a flare that meets the requirements of 40 CFR 63.987 or any other control device that meets the requirements for Group 1 batch process vents, provided the worst-case conditions for the control device includes the contribution of all Group 2 batch process vents. Reduced recordkeeping is allowed if non-reactive organic HAP is the only HAP in the process and usage is less than 10,000 lb/yr or if emissions are less than 1,000 lb/yr. Estimating uncontrolled organic HAP emissions is not required if you demonstrate that non-reactive organic HAP usage is less than 10,000 lb/yr. Data and supporting rationale explaining why non-reactive organic HAP usage will be less than 10,000 lb/yr must be included in your notification of compliance status report.

The final amendments also reduce or clarify reporting requirements. As clarification for process changes in 40 CFR 63.2520(e)(10), it should be noted that a new MCPU is created when a new product is made which is not part of an existing family of materials. Process changes to an existing MCPU such as the addition of new or different equipment, use of different feedstock, or addition of a parallel process may be a change in the operating scenario, but do not constitute a new MCPU. The definition of the term "batch process vent" has been amended to eliminate reporting requirements associated with determinations that emissions from batch operations have HAP emissions below the thresholds for batch process vents. The final amendments eliminate the requirement in 40 CFR 63.2520(e)(10)(ii)(C) of the final rule to provide a 60-day advance notification before batch process vents change from Group 2 to Group 1. Under the amended rule, you must document such a change in status in your notification of compliance status report in accordance with 40 CFR 63.2520(e)(10)(i). We changed 40 CFR 63.2465(b) to specify

[2] MEK has been removed as a result of its removal from the CAA section 112(b)(1) list of HAP. [70 FR 75047, December 19, 2005]

that the results of engineering assessments used to estimate uncontrolled hydrogen halide and halogen HAP emissions are to be documented in your notification of compliance status report, not your precompliance report. Finally, the amended rule requires operating logs (and copies of the applicable logs in compliance reports) only for processes with batch process vents from batch operations, not all processes.

III. Response to Comments

A. Applicability

Comment: Although not directly related to the proposed amendments, one commenter expressed concern that, despite previous attempts at clarification, a potential for overlap and conflict between the applicability provisions in the Miscellaneous Organic Chemical Manufacturing NESHAP (40 CFR part 63, subpart FFFF) and the miscellaneous coating manufacturing NESHAP (40 CFR part 63, subpart HHHHH) still exists. Based on the rules as currently written and additional guidance from EPA (70 FR 25678, May 11, 2005), the commenter understands that any process that produces a material that is used as a coating is subject to 40 CFR part 63, subpart HHHHH. The commenter has two concerns with this requirement. First, it is not clear which rule applies to the production of materials that have both coating and non-coating uses. Second, some coating manufacturing processes involve traditional chemical manufacturing operations, including reactions, which differ significantly from the processes consisting of mixing and blending operations that were used to develop the maximum achievable control technology (MACT) floor and regulatory requirements in 40 CFR part 63, subpart HHHHH. On the other hand, these processes are similar to processes that were used to develop the MACT floor and regulatory requirements in 40 CFR part 63, subpart FFFF.

To resolve the conflicts, the commenter requested that we issue a separate rulemaking to revise definitions in the Miscellaneous Coating Manufacturing NESHAP. The commenter, in conjunction with other companies, suggested changes to definitions in earlier communications with EPA. If changes are made before the compliance dates of both rules, needless effort to prepare and review precompliance reports for these situations can be avoided.

Response: We share the commenter's concern about the potential for conflict in applicability determinations. To clarify the applicability and eliminate the conflict, we have proposed changes to the definition of the term "coating" in the Miscellaneous Coating Manufacturing NESHAP (71 FR 28639, May 17, 2006). One of the proposed changes would clarify that only material produced by blending, mixing, dilution, or other formulation operations would be a coating. Thus, a process that involves only formulation operations would be subject to 40 CFR part 63, subpart HHHHH if the product is a coating. A second proposed change would clarify applicability for processes that involve chemical synthesis or separation of formulation components prior to the formulation operations. If the synthesized or separated material is stored as an isolated intermediate or final product prior to use in the formulation operation, the synthesis or separation process is subject to 40 CFR part 63, subpart FFFF. Thus, applicability of 40 CFR part 63, subpart FFFF would end with the storage vessel fed from the synthesis or separation operation, and 40 CFR part 63, subpart HHHHH would apply following storage through final production of the coating. When the synthesized or separated component is not stored before use in a formulation step, the second proposed change to the definition of the term "coating" would specify that a coating does not include materials made in processes where a formulation component is synthesized by chemical reaction or separation activity and then transferred to another vessel (without storage) where it is formulated to produce a material used as a coating. The preamble to these proposed amendments to the Miscellaneous Coating Manufacturing NESHAP states that comments must be received on or before July 3, 2006.

Comment: One commenter described how they think several tanks in a specific miscellaneous organic chemical manufacturing process would be classified under the amended rule. According to the commenter, a molten material from batch reactors is collected in tank A. Typically, the material from tank A is sent to a continuous centrifuge to remove a catalyst. The catalyst-free material is then transferred to either tank B or tank C. Still molten, material in tanks B and C is either transferred to rail cars for shipment or used onsite as feed material for a flaker or pastille maker. The flaker and pastille maker operates continuously, except when it is necessary to switch from one feed tank to the other. The commenter believes tank A is a surge control vessel, and tanks B and C are either storage tanks or surge control vessels.

Response: Although this is not the proper forum for a site-specific applicability determination, we will provide a general assessment based on the limited available information. Because it is managing the flow of material into a continuous operation, tank A is a surge control vessel. Since the material in tanks B and C is sometimes sold, these tanks mark the end of the process, and the tanks are storage tanks. In this case, the flaker and pastille maker is a separate process.

The determination would be more difficult if all of the material in tanks B and C was used onsite. If material were sometimes added to and withdrawn from these tanks simultaneously, then they would be managing flow to a continuous operation, and they would be surge control vessels. On the other hand, if it could be demonstrated that the tanks are being used solely for storage, then the molten material would be an isolated intermediate, and tanks B and C would be storage tanks. Note that in table 1 to this preamble we describe a change in the final amendments to the definition of "isolated intermediates." This change clarifies that storage equipment for isolated intermediates is part of the MCPU that produces the isolated intermediate.

Comment: One commenter thinks polymer products should not be regulated as "volatile organic liquids" under either subpart FFFF or other regulatory programs because they have very high molecular weights and negligible vapor pressure.

Response: Processes that produce certain polymer products are regulated under 40 CFR part 63, subpart FFFF if HAP are used in the process. However, only the HAP are subject to emission limits. The non-HAP polymer products themselves are not subject to emission limits under 40 CFR part 63, subpart FFFF. The requirements in other regulatory programs are not addressed in this response: Because today's action deals only with amendments to 40 CFR part 63, subpart FFFF.

B. Requirements for Process Vents

Comment: The proposed amendments included an additional compliance option for batch process vents that would allow the use of biofilters to comply with the 95 percent reduction option. One commenter requested that this option be made available for continuous process vents as well. The commenter realizes that, technically, biofilters may be used to comply with the 98 percent reduction option in table 1 to subpart FFFF, but the commenter

believes this is not feasible with current biofilter technology. To support his request, the commenter noted that biofilters have environmental benefits relative to the combustion devices they are likely to supplant. Specifically, both the consumption of fossil fuels and the generation of criteria pollutant emissions would be lower if continuous process vents are controlled using biofilters. The commenter also noted that there is no technological barrier to using biofilters to control emissions from continuous operations, and there is regulatory precedent for their use to control emissions from continuous operations (*i.e.*, 40 CFR part 63, subpart DDDD and subpart UUUU).

Response: We have decided not to include the requested biofilter option at this time. Although we agree that biofilters have some environmental advantages over combustion devices, we are concerned that the difference between 98 percent and 95 percent reduction in HAP emissions is not offset by the benefits of reduced fuel use and criteria pollutant emissions. Analysis of the offsets was not necessary for batch process vents because the rule already included a 95 percent reduction option before the biofilter option was proposed.

This issue is not closed. We have initiated a study to investigate the applicability of biofilters for continuous process vent emissions from miscellaneous organic chemical manufacturing processes. Some of the things we would like to determine are as follows. What level of control can be achieved? Does the level of control vary for different HAP? What effect do other emission stream characteristics such as flow rate and temperature have on the control efficiency? How much of the HAP removed from the emission stream is transferred to wastewater discharges? How much electricity is needed to run fans and pumps associated with a biofilter? How much solid waste is generated by biofilters, and how must it be disposed? Using the information collected, we will also reassess the environmental impacts of biofilters versus combustion devices. Depending on the results, we may decide to propose some type of biofilter option for continuous process vents in 40 CFR part 63, subpart FFFF in the future.

Comment: One of the proposed amendments added a compliance option for process vents that emit hydrogen halide and halogen HAP. This option, in entry 1.b. of Table 3 to subpart FFFF of 40 CFR part 63, would allow compliance by reducing the "halogen atom mass emission rate to ≤0.45 halogen HAP kg/hr by venting through a closed vent system to a halogen reduction device." Three commenters noted that it is unclear which vents need to be controlled when the collective hydrogen halide and halogen emissions from all vents in a process are at least 1,000 lb/yr. The commenters suggested clarifying that the limit applies to each individual process vent. According to two of the commenters, if a stream that is controlled to <0.45 kg/hr is in compliance, then it seems logical that any uncontrolled stream from the process that contains <0.45 kg/hr should also be in compliance.

Response: Application of the 0.45 kg/hr limit for hydrogen halide and halogen HAP differs for batch and continuous process vents. It applies to the sum of all batch vents and to each individual continuous process vent. This approach is consistent with the way limits are applied for organic HAP emissions from batch and continuous process vents. The language in Table 3 to subpart FFFF of 40 CFR part 63 has been changed to clarify the requirements.

Comment: One commenter requested clarification of the language in 40 CFR 63.2450(o), which currently states that "you may not use a flare to control halogenated vent streams or hydrogen halide and halogen HAP emissions." The commenter is concerned that this language appears to prohibit all vent streams with hydrogen halide and halogen HAP from flares, even if no control of hydrogen halide and halogen HAP is required for the stream. To clarify the paragraph, the commenter suggests changing it to read as follows: "You may not use a flare to control halogenated vent streams or as a control device for hydrogen halide and halogen HAP emissions to comply with Table 3."

Response: We have changed 40 CFR 63.2450(o) as suggested by the commenter because the suggested language is consistent with our intent, and it may eliminate confusion. If hydrogen halide and halogen HAP in a vent stream must be controlled to meet the emission limits in Table 3 to subpart FFFF of 40 CFR part 63, then that vent stream may not be vented to a flare. All other vent streams that contain hydrogen halide and halogen HAP may be vented to a flare. For example, a continuous process vent stream containing less than 0.45 kg/hr of hydrogen halide and halogen HAP could be sent to the flare.

Comment: Two commenters noted that the language in entry 1.a of Table 3 to subpart FFFF of 40 CFR part 63 appears to require the use of a single closed-vent system to convey hydrogen halide and halogen HAP from all process vents in a process to a control device(s). According to the commenters, this could be a problem because it is possible that the process vents within a process that must be controlled may be separated by distances that would make collection into a single closed-vent system impractical or uneconomical. The commenters suggested changing the language to allow for the use of a "combination of closed-vent systems."

Response: We did not intend to force the use of a single control device (or series of control devices) for all process vents within the process. Therefore, we have changed entries 1.a and 1.b in Table 3 to subpart FFFF of 40 CFR part 63 to allow venting through "one or more closed-vent systems." We also amended entries 1.a, 1.b, and 1.c in Table 2 to subpart FFFF of 40 CFR part 63 in the same manner. These changes provide flexibility to use as many separate control devices as necessary.

Comment: One commenter requested clarification of the language in 40 CFR 63.2495(b)(1), which currently specifies that "Hydrogen halides that are generated as a result of combustion control must be controlled according to the requirements of 40 CFR 63.994 and the requirements referenced therein." The commenter is concerned that this language appears to require the use of halogen reduction devices regardless of the halogen atom concentration in the emission stream that is combusted. This conflicts with provisions elsewhere in the rule that require the use of halogen reduction devices only when halogenated vent streams are combusted.

Response: To eliminate the inconsistency that the commenter identified, we have amended 40 CFR 63.2495(b)(1) to require control of hydrogen halides generated by combustion control only "if any vent stream routed to a combustion control is a halogenated vent stream."

Comment: One commenter stated that regenerative thermal oxidizers (RTO) should be recognized as a form of incineration that can be used for control as long as any combined control system meets the 98 percent control efficiency or outlet concentration limit.

Response: RTO are acceptable control devices under the rule. Nothing in the rule prohibits their use alone or in combination with other devices to meet specified emission limits for organic HAP.

C. Requirements for Wastewater

Comment: One commenter requested clarification of the POD for scrubbers. According to the commenter, the point where effluent is discharged from a

scrubber should be a POD, and the effluent itself should be process wastewater, only when the scrubber is used to comply with the emission limits for process vents. The commenter suggested adding language like that in 40 CFR 63.1256(a)(1)(iii) of the Pharmaceuticals Production NESHAP.

Response: We agree with the commenter that the requirements for scrubber effluent need to be clarified. On July 1, 2005, we published direct final rule amendments (70 FR 38554) and a parallel proposal (70 FR 38562) that specified requirements for effluent from control devices. We later withdrew these amendments because of adverse comment (70 FR 51269, August 30, 2005). As a result, the rule is now silent on the requirements for scrubber effluent.

We disagree with the commenter's assertion that only scrubbers that are used to meet emission limits for process vents should have a POD. If a process operates a few hours per year, it may have Group 2 batch process vent emissions with high HAP concentrations. If such emission streams are controlled with a scrubber, we believe that the effluent discharges should be considered for possible compliance with wastewater requirements.

After consideration of the comment and evaluation of requirements in other rules, we have decided to resolve the existing ambiguity by modifying the definition of "point of determination" in the final amendments. In general, 40 CFR part 63, subpart FFFF references the wastewater requirements in the Hazardous Organic NESHAP (HON), 40 CFR part 63, subpart G, including the POD definition in 40 CFR 63.111. According to this definition, a POD is each point where process wastewater exits the chemical manufacturing process unit (CMPU) (or MCPU, in the case of 40 CFR part 63, subpart FFFF). However, the term does not have the same meaning under 40 CFR part 63, subpart FFFF as it does in the HON due to an unintended consequence created by the decision to exclude control devices from the MCPU (whereas they are part of CMPU under the HON). To make the application of POD under 40 CFR part 63, subpart FFFF consistent with their application in the HON, the final amendments include a freestanding (i.e., non-cross-referenced) term "point of determination" in 40 CFR 63.2550(i) of 40 CFR part 63, subpart FFFF. This revised definition specifies that a POD is each point where process wastewater exits the MCPU or control device.

As a result of this change, effluent discharge points from all scrubbers, not just those that are used to meet emission limits for process vents, are POD. Discharge points from other types of control devices are also POD. The effluent also is process wastewater, as under the HON. To determine if the effluent is subject to requirements for wastewater, you must determine if it meets any of the Group 1 wastewater criteria, just like for other process wastewater streams.

Comment: Several commenters requested that methyl ethyl ketone (MEK) be deleted from the list of PSHAP in Table 8 to subpart FFFF of 40 CFR part 63 because MEK was removed from the list of HAP in the CAA on December 19, 2005 (70 FR 75047). One of the commenters suggested a separate rulemaking to address the situation before the compliance date.

Response: We agree with the commenters that MEK should no longer be listed in Table 8 to subpart FFFF of 40 CFR part 63 because MEK has been removed from the HAP list. Therefore, we removed MEK from Table 8 to subpart FFFF of 40 CFR part 63 in the final rule amendments.

D. Requirements for Equipment Leaks

Comment: One commenter requested that bench-scale operations be exempt from the MON just as in the HON at 40 CFR 63.160(f) and 40 CFR 63.190(f), the Pharmaceuticals Production NESHAP at 40 CFR 63.1255(a)(6), and the Pesticide Active Ingredient Production NESHAP at 40 CFR 63.1363(a)(6). The commenter states that the justification for excluding bench-scale operations from the other rules, as stated in the preamble to an amendment for the HON (60 FR 18071, April 10, 1995), is equally applicable to the MON source category.

Response: We agree with the commenter and have corrected this oversight by adding an exemption for bench-scale batch operations in a new 40 CFR 63.2480(d). Although the term "bench-scale batch operations" is defined in 40 CFR 63.161 of the HON, we also added the same definition in the final amendments to 40 CFR 63.2550(i) because the term is not defined in 40 CFR part 63, subpart UU or in 40 CFR part 65, subpart A.

Comment: One commenter opposed the proposed amendments to the requirements for equipment leaks at existing sources in Table 6 to subpart FFFF. These changes would eliminate the 40 CFR part 63, subpart TT option for MCPU with no continuous process vents in favor of a new above-the-floor option that would require all MCPU to comply with either 40 CFR part 63, subpart UU, or 40 CFR part 65, subpart F, both modified to allow sensory monitoring of connectors in place of Method 21 monitoring.

The commenter stated four objections to the proposed changes. First, the commenter does not believe we have met the statutory requirement to demonstrate that the costs of the new option are reasonable, particularly for equipment in an MCPU with no continuous process vents. To illustrate this concern, the commenter provided information for an example pump and concluded that the additional cost to comply with 40 CFR part 63, subpart UU instead of 40 CFR part 63, subpart TT could be over $70,000 per ton of HAP removed.

Second, the commenter disagrees with our assertion that a consistent set of options for all MCPU will simplify applicability because this determination needs to consider other rules that apply at the MON facilities. For example, if a facility with MON batch operations is also subject to the Organic Liquid Distribution NESHAP, for which 40 CFR part 63, subpart TT is a compliance option, then eliminating the 40 CFR part 63, subpart TT option from the MON could make applicability more complicated.

Third, even if the nationwide benefits of reduced connector monitoring for continuous operations more than offsets the additional nationwide burden to comply with the 40 CFR part 63, subpart UU for all MCPU, the commenter is concerned that the offsets are inequitably distributed. Facilities primarily engaged in batch chemical manufacturing would incur additional costs but receive little or no benefit, whereas facilities that primarily operate continuous chemical manufacturing processes will receive the benefits but incur little or no cost.

Fourth, the commenter stated that the new leak detection and repair (LDAR) options do not appropriately recognize the difference in potential environmental impact between batch and continuous operations. The commenter noted that, prior to the amendments, 40 CFR part 63, subpart FFFF allowed for the fundamental differences of scale and modes of operation between continuous and batch operations by properly allocating the stringency of equipment leak requirements. The commenter argued that the proposed change does neither. The higher stringency of 40 CFR part 63, subpart UU is appropriate for large continuous operations but not for small batch operations.

Response: In the analysis for the proposed amendments, the MACT floor

for all MCPU was an LDAR program equivalent to the requirements in 40 CFR part 63, subpart TT, and the above-the-floor option lowered the leak definition for pumps and valves to the level specified in 40 CFR part 63, subpart UU. Although we stand by our original conclusion that the average nationwide impacts of the proposed above-the-floor option are reasonable, we also share the commenter's concern that the benefits and costs are not distributed equitably among facilities with different types of operations, especially when considering the leak detection and repair program already implemented at the facility.

Upon closer examination of the results of the cost analysis, it is clear that the incremental impacts for pumps in MCPU that have no continuous process vents are much more significant than the impacts for valves in those same processes and the impacts for MCPU that have continuous process vents. To mitigate the excessive burden for batch operations already in compliance with 40 CFR part 63, subpart TT, we have modified the above-the-floor option to lower the pump leak definition only for MCPU with continuous process vents (the option still lowers the leak definition for valves in all MCPU). As a result of this change, the incremental impacts for both batch and continuous operations are reasonable. For the final amendments, we did not change the language in Table 6 to subpart FFFF of 40 CFR part 63 (i.e., the LDAR programs in 40 CFR part 63, subpart UU and 40 CFR part 65, subpart F are still the starting point for all MCPU). However, new language in 40 CFR 63.2480(b)(5) and (c)(5) specifies that you may elect to comply with a leak definition of 10,000 ppm for pumps in light liquid service in an MCPU that has no continuous process vents and is part of an existing source.

In addition to the changes described above for pumps, the final amendments also include an additional compliance option for equipment leaks. Many facilities with processes that are subject to 40 CFR part 63, subpart FFFF also have processes that are subject to the equipment leak provisions in 40 CFR part 63, subpart H. The requirements in 40 CFR part 63, subpart H are substantially similar to the requirements in 40 CFR part 63, subpart UU. Therefore, we decided to modify Table 6 of subpart FFFF to 40 CFR part 63 to allow compliance with 40 CFR part 63, subpart H as another alternative. This option provides additional flexibility, and it may reduce the burden for some owners and operators while achieving the same level of emissions control.

E. Initial Compliance Requirements

1. Design Evaluations

Comment: A proposed amendment to 40 CFR 63.2450(h) would clarify that the option to conduct a design evaluation instead of a performance test for a small control device applies only to control devices used to control process vents and transfer racks because other provisions in the rule already allow design evaluations for storage tanks and wastewater. Section 63.2450(h) also references the criteria for design evaluations in 40 CFR 63.1257(a)(1) of the Pharmaceuticals Production NESHAP. One commenter believes it would be preferable to require compliance with the design evaluation requirements in 40 CFR 63.985(b) for small control devices used to meet the emission limits in Tables 1, 3, and 5 to subpart FFFF of 40 CFR part 63, and require compliance with 40 CFR 63.1257(a)(1) only for control devices used to meet the emission limits specified in Table 2 to subpart FFFF of 40 CFR part 63. According to the commenter, referencing the design evaluation procedures in 40 CFR part 63, subpart SS for the emission types subject to Tables 1, 3, and 5 to subpart FFFF of 40 CFR part 63 is appropriate because the performance test and other requirements in 40 CFR part 63, subpart SS also apply to those emission types. The commenter also recommended adding the following statement: "For continuous process vents the design evaluation shall be conducted at maximum representative operating conditions for the process, unless the Administrator specifies or approves alternate operating conditions."

Response: Although written in very different styles, the intent of the design evaluation requirements in 40 CFR part 63, subpart SS and the Pharmaceuticals Production NESHAP are essentially the same, to the extent they overlap. We decided not to reference both sets of requirements because we believe it is clearer to reference only one wherever possible. We selected the criteria in the Pharmaceuticals Production NESHAP because they are slightly more comprehensive than the procedures in 40 CFR part 63, subpart SS (e.g., they include criteria for scrubbers and non-regenerative carbon adsorbers). Furthermore, the language in the Pharmaceuticals Production NESHAP is nearly identical to the language in 40 CFR 63.139 of the HON, which 40 CFR part 63, subpart FFFF references for wastewater control devices.

We agree with the commenter's suggested clarification regarding the conditions under which the design evaluation should be conducted for a control device that controls continuous process vents. This language is borrowed from 40 CFR 63.997(e)(1)(i), and it will ensure that design evaluations are conducted under the same conditions as performance tests. It also complements the instructions in 40 CFR 63.2460(c)(2)(ii), which specify conditions under which a design evaluation should be conducted for a control device that controls batch process vents. Thus, we added the commenter's suggested language in 40 CFR 63.2450(h). Along these same lines, we also added a statement specifying that a design evaluation for a control device that is used to control transfer racks must demonstrate that the required efficiency is achieved during the reasonably expected maximum transfer loading rate.

2. Requirements After Process Changes

Comment: Proposed amendments in 40 CFR 63.2445(d), (e), and (f) specify requirements that apply after various types of process changes. In each case, the proposed amendments specify that a performance test or design evaluation is required within 150 days of the process change. Two commenters requested clarification of the proposed amendments because they noted that an initial compliance demonstration does not always require a performance test or design evaluation. For example, one commenter pointed out that no performance test should be required if the facility complies with the alternative standard or routes the emission stream to a fuel gas system. The other commenter described a situation where a performance test should not be required because a previous test is still valid. According to this commenter, when production is scaled up so that Group 2 batch process vents become Group 1 batch process vents, production may be shifted to different equipment for which initial compliance was previously demonstrated under worst-case conditions that are not exceeded by the operating scenario for the new process. To clarify the amendments, one commenter suggested replacing the references to performance tests and design evaluations with a reference to "an initial compliance demonstration as specified in this subpart."

Response: Our intent was to require a performance test or design evaluation after the specified types of process changes only when a performance test or design evaluation would have been required to demonstrate initial

compliance if the situation after the change had existed at the time the facility first became subject to 40 CFR part 63, subpart FFFF. The commenters correctly observed that in some situations initial compliance can be demonstrated without a performance test or design evaluation, or it can be demonstrated using a previous performance test. Therefore, we revised 40 CFR 63.2445(d), (e), and (f) in the final rule amendments to require any applicable initial compliance demonstration instead of requiring only a new performance test or design evaluation.

3. Calculation of Uncontrolled Emissions

Comment: One commenter pointed out that the calculation of HAP emissions from process condensers requires knowledge of condensate receiver composition and condenser exit gas temperature (or direct knowledge of exit gas stream composition). In most cases, data on the condensate composition is not available. The commenter stated that typical errors made in estimating emissions following process condensers include use of condenser exit water temperature instead of exit gas temperature, lack of an applied material balance, and use of reactor vessel liquid phase mole fraction to determine partial pressure of condensables in the condenser exit gas (single most common mistake). When the operator has no knowledge of the liquid condensate mole fractions, a material balance must be used to determine the mole fractions present in equilibrium with the exiting emission stream. The commenter provided an example of a material balance based on noncondensables for a process operation involving toluene and xylene. The commenter further points out that for process operations where temperature and pressure are changing, the material balance may be complex. In summary, the commenter stated that it is essential that the noncondensable material balance be applied in conjunction with an iterative solution to solve condensate liquid mole fraction for cases where liquid composition in the receiver is not known.

Response: We agree with the commenter that the required procedures to calculate uncontrolled emissions when a vessel is equipped with a process condenser should be corrected to reflect the condenser exit gas temperature and composition of the condensate. The following assumptions apply for calculating uncontrolled emissions from process vent from a process condenser:

(1) For all condenser calculations one would use the condenser exit gas temperature and pressure as the reference conditions.

(2) It should be assumed that the condenser exit vent gas is in equilibrium with the liquid condensate which is also leaving the condenser based on the exit gas temperature. Therefore, the calculated vapor pressure for each volatile component in the condensate would have approximately the same calculated partial pressure of the same component in the exit vent gas from the condenser.

(3) Dalton's Law would be used to calculate the partial pressure of the noncondensable component (air, nitrogen, * * *) contained in the condenser exit vent gas. This is where the sum of all of the partial pressures is equal to the total system pressure and the partial pressure of the noncondensable component would be calculated by subtracting the sum of all volatile component vapor pressures from the total system pressure.

(4) Material balance considerations should be taken into account for each component at the condenser. The amount of each component that enters the condenser should be approximately equal to the amount that is calculated to leave the condenser through the exit vapor stream and the exit condensate liquid stream.

(5) The amount of each component that is emitted from the condenser should be determined first. The total HAP that are emitted from the condenser may then be calculated from the component emission totals. It is likely that many of the compounds that are emitted from the condenser may not be HAP but would need to be calculated as part of the overall condenser solution.

In all but the simplest cases (single component systems) the solution to the condenser problem will require a numerical iteration as part of the basic procedure. We are changing the procedures for calculating emissions from condensers to be as technically correct as possible. This is important because uncontrolled emission estimates are used as a threshold for requiring installation and operation of control devices.

Comment: As part of the proposed amendments, a new paragraph was added at 40 CFR 63.2460(b)(4) to require the use of procedures in 40 CFR 63.1257(d)(3)(i)(B) to calculate uncontrolled batch process vent emissions from a vessel equipped with a process condenser. Three commenters noted that there are some batch process steps where a process condenser is used, but the required equations do not adequately estimate the emissions. The commenters cited the following as examples: intermittent vents from continuous distillation columns, maintenance purges, or regenerator operations. To estimate uncontrolled emissions for such steps, the commenters believe 40 CFR part 63, subpart FFFF should allow the use of engineering assessments in accordance with 40 CFR 63.1257(d)(2)(ii) of the Pharmaceuticals Production NESHAP. According to one commenter, engineering assessments also should be allowed for emission episodes covered by the equations if the owner or operator can demonstrate to the Administrator that those methods are not appropriate.

Response: We agree with the commenters that the specified equations do not address all possible types of emission episodes from process condensers, just as they do not address all possible types of emission episodes directly from process equipment. Therefore, we have modified 40 CFR 63.2460(b)(4) in the final amendments to allow the use of engineering assessments for types of emission episodes not covered by the specified equations. However, the revised procedure for calculating condenser emissions will always apply. We also added the provision that allows engineering assessments covered by the equations in 40 CFR 63.1257(d)(3)(i)(B) if you can demonstrate that those methods are not appropriate. These changes make the procedures for estimating uncontrolled emissions from process condensers consistent with the procedures for estimating uncontrolled emissions directly from process equipment.

Comment: A proposed amendment in 40 CFR 63.2465(b) clarifies that uncontrolled hydrogen halide and halogen HAP emissions may be estimated using either the equations in 40 CFR 63.1257(d)(2)(i) or an engineering assessment in accordance with 40 CFR 63.1257(d)(2)(ii), whichever is appropriate. One commenter noted that in order to use an engineering assessment for emission episodes covered by the equations, 40 CFR 63.1257(d)(2)(ii) requires a demonstration that the equations are not appropriate. The commenter asked if information to support the demonstration should be documented in the notification of compliance status report.

Response: According to 40 CFR 63.1257(d)(2)(ii)(E), all information must be documented in the precompliance report. However, we

understand that the emission equations in 40 CFR 63.1257(d)(2)(i) were developed for organic HAP and decided that a demonstration that the equations are not appropriate for hydrogen halide and halogen HAP emissions would be an unnecessary burden. Therefore, 40 CFR 63.2465(b) of the final amendments specifies that the information to support an engineering assessment for estimating hydrogen halide and halogen HAP emissions must be submitted in the notification of compliance status report.

F. Monitoring Requirements

1. Absorbers

Comment: Five commenters objected to the proposed amendments to the monitoring requirements for absorbers in 40 CFR 63.2450(k)(5). These amendments would require continuous monitoring of liquid and gas flow, and records of the liquid-to-gas ratio, in addition to the monitoring and recordkeeping required in 40 CFR 63.990(c)(1), 63.993(c)(1), and 63.998(a)(2)(ii)(C). According to the commenters, the current monitoring requirements (liquid temperature and specific gravity) are sufficient to demonstrate compliance, and they believe we have not explained why these requirements are inadequate. They also noted that there is no precedent for the proposed monitoring (except for halogen scrubbers, for which flow monitoring is already required in 40 CFR 63.994), and it would add significant burden and cost to monitoring absorbers. Therefore, the commenters believe the proposed amendments should not be finalized.

Response: Our intent was to require liquid and gas flow monitoring only for absorbers where water is used as the scrubbing fluid. As the commenters pointed out, the rule already requires this monitoring for halogen scrubbers by referencing the requirements in 40 CFR 63.994. However, water can also be used to scrub organic compounds from an emission stream. We believe the same monitoring requirements that apply to halogen scrubbers should also apply to any other absorber that uses water as the scrubbing liquid. Therefore, 40 CFR 63.2450(k)(5) in the final amendments has been revised to require the liquid and gas flow monitoring only for absorbers that control organic compounds and use water as the scrubbing fluid.

2. Organic Monitoring Devices

Comment: The proposed amendments added a new 40 CFR 63.2460(c)(9) to specify requirements for biofilters that are used as control devices for batch process vents. Section 63.2460(c)(9)(iii) specified requirements for temperature monitoring devices and organic monitoring devices. This section also indicated that general requirements for continuous emissions monitoring system(s) (CEMS) are specified in 40 CFR 63.2450(j) and in Table 12 to subpart FFFF of 40 CFR part 63. The preamble to the proposed amendments explained that this rule language means the quality assurance/quality control and other requirements for CEMS in subpart A of 40 CFR part 63 would apply to organic monitoring devices. Three commenters disagreed with this statement. One of the commenters pointed out that a CEMS must provide a record of the emissions, whereas an organic monitoring device is required to provide an indication of concentration. As an example, this commenter noted that the monitored parameter for an organic monitoring device could be a calibrated indicator of HAP concentration such as the millivolts generated by a concentration sensor. According to another commenter, the references to CEMS in the amended explanations for citations in Table 12 to subpart FFFF of 40 CFR part 63 should be applicable only to CEMS that are used for compliance with the alternative standard in 40 CFR 63.2505. Thus, the three commenters recommended removing the proposed changes from 40 CFR 63.2460(c)(9)(iii), Table 12 to subpart FFFF of 40 CFR part 63, and all associated preamble discussions.

Response: The commenters' interpretation of the differences in requirements for CEMS and organic monitoring devices is correct. Requirements for CEMS were inappropriately applied to organic monitoring devices in 40 CFR 63.2460(c)(9)(iii) of the proposed amendments, and they have been removed from the final amendments. As a result of these changes, the use of an organic monitoring device with a biofilter is subject to the parameter monitoring requirements in 40 CFR part 63, subpart SS. All other organic monitoring devices, except those used with controls for wastewater systems, are also subject to the requirements in 40 CFR part 63, subpart SS. Organic monitoring devices used with controls for wastewater systems are subject to the similar parameter monitoring requirements in 40 CFR part 63, subpart G of the HON.

We disagree with the comments regarding the proposed changes in Table 12 to subpart FFFF of 40 CFR part 63. Nothing in the rule prohibits the use of a CEMS to monitor pollutant concentrations to demonstrate continuous compliance with a percent reduction requirement. For example, a control device might reduce HAP concentrations to less than 100 ppm. This would not be enough to demonstrate compliance with the alternative standard, but it might be more than 98 percent reduction. Most owners and operators in this situation might choose to comply with the organic monitoring device provisions and monitor a parameter like the millivolts generated by the concentration sensor. That would be acceptable. However, you also have the option to directly monitor the concentration. We believe that monitoring the concentration continuously makes the equipment a CEMS, and the requirements for CEMS should apply. The proposed changes to Table 12 to subpart FFFF of 40 CFR part 63 make it clear that requirements for CEMS apply anytime a CEMS is used (i.e., emissions concentrations are continuously monitored), but they do not apply to an organic monitoring device. Thus, the proposed changes to Table 12 to subpart FFFF of 40 CFR part 63 are retained in the final amendments.

3. Scrubber Monitoring

Comment: Sections 63.994(c) and 63.2450(k)(3) require continuous monitoring of either pH or caustic strength in the effluent from halogen scrubbers. One commenter argued that the requirement for continuous monitoring is "arbitrary and particularly burdensome to batch operators" and should be changed to daily monitoring to match the Pharmaceuticals Production NESHAP and the Pesticide Active Ingredient Production NESHAP.

Response: We decided to modify 40 CFR 63.2450(k)(3) in the final amendments to allow daily monitoring of pH or caustic strength as an alternative to continuous monitoring for halogen scrubbers used to control only batch process vents. This change minimizes the burden for batch operations and brings the monitoring requirements for such operations at MON sources in line with the monitoring requirements for batch operations at pharmaceutical and pesticide active ingredient (PAI) sources.

4. Periodic Verification

Comment: Section 63.2460(c)(5) of the final rule specifies alternative monitoring provisions, called periodic verifications, for control devices that control less than 1.0 ton per year HAP from batch process vents. One commenter suggested that the periodic

verification option should be available for monitoring control devices that control emissions from all types of emission points, not only batch process vents. To support this suggestion, the commenter noted that both the proposed rule (67 FR 16154, April 4, 2002) and the pharmaceuticals production NESHAP did not limit the use of the periodic verification provision to batch process vents.

Response: The purpose of the periodic verification option is to minimize the monitoring burden on small operations that are expected to contribute only a small fraction of the total emissions. We agree with the commenter that there is no need to restrict the option to controls for batch process operations. As the commenter noted, the proposed rule and other rules (pharmaceuticals production and PAI production) did not limit the option to controls for batch process vents. To correct this inadvertent oversight, the final amendments move the periodic verification requirements from 40 CFR 63.2460(c)(5) to 40 CFR 63.2450(k)(6) so that they will apply to control devices that control less than 1.0 ton per year of HAP from any emission points.

G. Recordkeeping and Reporting Requirements

1. Wastewater Control Devices

Comment: As part of the proposed amendments, a new paragraph with recordkeeping requirements for flare monitors was added in 40 CFR 63.2485(o)(1). One commenter believes the proposed provision mistakenly references requirements for nonflares. The commenter recommended revising the proposed language to match the subpart SS recordkeeping requirements for flares.

Response: Flares that are used to control wastewater emissions are subject to the requirements in 40 CFR part 63, subpart G of the HON. The proposed language in 40 CFR 63.2485(o)(1) was added to make the recordkeeping and reporting requirements for flares used to control wastewater systems consistent with the requirements in 40 CFR 63.998(a)(1)(iii) of subpart SS. Since proposal of the amendments we realized that the proposed language is unnecessary because 40 CFR 63.147(d)(1) contains the same recordkeeping requirement, and Table 20 to subpart G of 40 CFR part 63 (as referenced from 40 CFR 63.146(e)(1)) contains the same reporting requirement. Therefore, the proposed amendments to 40 CFR 63.2485(o)(1) were not included in the final amendments.

Comment: According to one commenter, the proposed 40 CFR 63.2485(o)(2) creates a recordkeeping conflict for nonflare control devices used for wastewater emissions. The section requires compliance with both 40 CFR 63.152(f) of subpart G and 40 CFR 63.998(c)(1) of subpart SS. Because some of the requirements are not consistent with each other, the commenter recommended revising 40 CFR 63.2485(o)(2) to read, "you must keep records as specified either in § 63.998(c)(1) or § 63.152(f) in addition to the other records required in § 63.147(d)."

Response: We disagree with the suggested change. Section 63.152(f) specifies requirements such as the frequency of monitoring measurements, procedures for developing daily or other average values, and the amount of time records must be kept. These procedures would overlap with procedures in 40 CFR 63.998(b), but subpart FFFF does not reference 40 CFR 63.998(b) for wastewater control devices. On the other hand, 40 CFR 63.998(c)(1) requires records of information such as calibration results, periods when the CPMS is inoperative, and the occurrence and duration of startup, shutdown, and malfunction of CPMS. For a source subject to the HON, comparable records may be required by 40 CFR 63.103, but this section of the HON is not referenced from 40 CFR part 63, subpart FFFF. Therefore, we retained the proposed requirement in the final amendments so that the same CPMS monitoring records are required for non-flare control devices regardless of the emission point that is controlled.

2. Operating Logs

Comment: As part of the proposed amendments, §§ 63.2520(e)(5)(ii)(C), 63.2520(e)(5)(iii)(K), and 63.2525(c) were modified to require operating logs only for "processes with batch vents." The preamble to the proposed amendments also stated that operating logs are not needed for processes that consist entirely of continuous operations. Two commenters agree with the preamble language, but they noted that the proposed rule language still requires operating logs for continuous operations with intermittent emissions because these operations fit the definition of "batch vents." Therefore, the commenters recommended changing the proposed language to refer to batch "operations."

Response: As the commenters noted, by referring to "processes with batch vents," the proposed rule language did not fully accomplish our goal as stated in the proposal preamble because continuous operations with intermittent emissions are defined as batch process vents. Therefore, 40 CFR 63.2520(e)(5)(ii)(C), 63.2520(e)(5)(iii)(K), and 63.2525(c) were revised in the final amendments to require operating logs only for "processes with batch process vents from batch operations."

3. Frequency of Recordkeeping Calculations for Group 2 Batch Process Vents

Comment: Sections 63.2520(e)(2) and (3) of the proposed amendments specified recordkeeping requirements for MCPU with Group 2 batch process vents for which you documented that the amount of non-reactive HAP used is less than 10,000 lb/yr or the uncontrolled organic HAP emissions are less than 1,000 lb/yr. These sections also require you to calculate daily rolling annual sums of either the non-reactive HAP usage or number of batches operated. Data may be accumulated for up to a month, and all calculations for each day in the month may be performed at one time. One commenter requested that these daily rolling annual sums be changed to monthly rolling annual sums.

According to the commenter, calculations on a daily basis will add to the compliance burden because a new system would be needed to ensure that production is assigned to the correct day. Of particular concern to the commenter is how to comply when a batch operates for longer than 1 day. The commenter believes that new procedures will need to be developed to arbitrarily assign products to individual days during the batch cycle. On the other hand, the commenter pointed out that many facilities already have monthly recordkeeping systems in place under their title V permits, and these systems include procedures to ensure that the monthly data is complete and accurate.

The commenter also argued that the daily calculations would not provide better information than monthly calculations. According to the commenter, the purpose of both procedures is to "track emissions from processes that are well below the Group 1 process vent standards," and a monthly sum would ensure this threshold was not exceeded.

Response: We rejected the suggestion to change the rolling annual sums from a daily to monthly basis for several reasons. First, daily calculation of the annual usage or number of batches is consistent with the basis for the 10,000 lb/yr emission threshold for Group 1 batch process vents. Less frequent calculations increases the potential that

short-term fluctuations and periods of non-compliance will be masked. Second, usage at 10,000 lb/yr is not necessarily "well below" the Group 1 emission threshold of 10,000 lb/yr. For example, usage may nearly equal batch process vent emissions for a process that consists of little more than a batch reactor. Third, we are not persuaded that the burden to collect data for daily calculations will be significantly different than collecting data for monthly calculations. The fundamental information about production and HAP usage that would be collected for monthly calculations most likely would be developed on a batch or daily basis. Handling data for processes that take more than one day also should not be difficult. Any consistent procedure should be acceptable. For example, your system could account for each batch on the day the batch is completed. Similarly, the amount of non-reactive HAP used in each batch could be assigned to the day the batch is completed, or you could elect to define some procedure to assign a percentage of the total usage to each day over which the process operated.

H. Overlap With Other Rules

Comment: The proposed amendments modified provisions in 40 CFR 63.2535(k) that are intended to minimize the burden of complying with equipment leak requirements when both 40 CFR part 63, subpart FFFF and another rule apply to the same process. The first sentence in this section specifies that an owner or operator may elect to comply with only 40 CFR part 63, subpart FFFF for equipment that is part of the affected source under 40 CFR part 63, subpart FFFF and is also subject to either 40 CFR part 60, subpart VV or 40 CFR part 61, subpart V. If an owner or operator elects this method of compliance, the proposed second sentence requires all organic compounds, minus methane and ethane, to be considered as if they were HAP. One commenter noted that in this context the second sentence is unnecessary because all of the equipment described by the first sentence must be in HAP service. However, the commenter believes that this section also should allow sources to apply the requirements in 40 CFR part 63, subpart FFFF to equipment in an MCPU that is subject to 40 CFR part 60, subpart VV or 40 CFR part 61, subpart V, but is not subject to 40 CFR part 63, subpart FFFF. The commenter notes that this requirement in conjunction with the proposed second sentence would make sense, and together these provisions would be consistent with 40 CFR 63.160(c) of the HON.

Response: Our intent with the proposed amendments was to include provisions in 40 CFR 63.2435(k) that are consistent with the provisions in 40 CFR 63.160(c) of the HON. We inadvertently neglected to include the first sentence from 40 CFR 63.160. Therefore, the final amendments to 40 CFR 63.2535(k) include the additional sentence as suggested by the commenter to make the provisions consistent with the provisions in 40 CFR 63.160(c).

Comment: Section 63.2535(c) specifies provisions that are intended to minimize the compliance burden when 40 CFR part 63, subpart FFFF and another rule (either 40 CFR part 60, subpart Kb or 40 CFR part 61, subpart Y) apply to the same storage tank. One commenter requested that this section be revised to include provisions similar to those for equipment leaks in 40 CFR 63.2535(k). The commenter believes such provisions would simplify compliance for storage tanks that are assigned to an MCPU but are not subject to the storage tank requirements in 40 CFR part 63, subpart FFFF because they contain little or no HAP. According to the commenter, such flexibility is provided in the HON.

Response: Although a storage tank with little or no HAP may be subject to 40 CFR part 60, subpart Kb or 40 CFR part 61, subpart Y and also be assigned to an MCPU, there is essentially no overlap because no requirements in 40 CFR part 63, subpart FFFF apply to such a tank. This situation is similar to that for shared storage tanks that are assigned to a process unit that is subject to one rule but is also used with a process unit that is subject to another rule. Unlike the situation for equipment leaks, we believe any reduction in burden achieved by complying with 40 CFR part 63, subpart FFFF for storage tanks in an MCPU that are not subject to requirements in 40 CFR part 63, subpart FFFF would be negligible. Furthermore, the HON does not include the provisions described by the commenter. Therefore, we have decided not to amend 40 CFR 63.2435(c) as suggested by the commenter.

I. Definitions

1. Miscellaneous Organic Chemical Manufacturing Process

Comment: As part of the amendments, the definition of "miscellaneous organic chemical manufacturing process" in 40 CFR 63.2550(i) was changed to specify an endpoint to processes that manufacture solid products. One commenter concurred with the concept of defining an end point for such processes. However, the commenter is concerned that the proposed definition could be misapplied on polymer production processes that have no dryer and no extruder or die-plate. The commenter explained that their solid-state polymerization process for polyethylene terephthalate (PET) operates without any of this equipment. The finished polymer is discharged from the reactors as a coarse, ready-to-use powder. Without clarification, the commenter is concerned that the proposed definition conceivably extends the PET process into the subsequent film manufacturing process, which would conflict with previous guidance EPA has provided regarding the applicability of 40 CFR part 63, subpart FFFF. To clarify this situation, the commenter suggested the endpoint for solid-state polymerization processes be "at the container or vessel used to collect or store the reacted polymer if subsequent drying is not required and the polymer is in a form amenable to its intended manufacturing purpose."

Response: We agree with the commenter that the proposed definition needs to be modified to clarify the endpoint of a solid-state polymerization process that does not include a dryer. We believe the reactor is the appropriate end of such a process, provided there are no HAP removal steps following the reactor. This point is comparable to the end points specified for other processes that manufacture solid products. The definition in the final amendments has been revised to reflect this decision.

Comment: In addition to the proposed endpoint described above for processes that produce solid products, one commenter thinks the miscellaneous organic chemical manufacturing process definition also should specify an endpoint for processes that produce liquid products. The commenter cited acrylic polymer manufacturing processes as examples of processes for which an endpoint is needed. According to the commenter, after the polymerization reaction, the product is an emulsion of polymer solids in water, and the residual HAP monomer concentration generally is low. The commenter suggested that EPA could establish an option that would exempt from regulation all processing steps after the point where the residual HAP monomer falls below some reasonable threshold concentration. The commenter pointed to the 5 weight percent HAP option in the Miscellaneous Coating Manufacturing NESHAP as a good example.

Response: This comment is similar to several comments on the original

proposed rule. The earlier commenters wanted the rule to exempt processing steps where the HAP content is less than 5 weight percent or HAP is present only as an impurity. In our response to those comments (see docket item No. EPA–HQ–OAR–2003–0121–0036), we explained that the rule includes numerous applicability cutoffs and exemptions that we think are sufficient.

For example, equipment leak requirements do not apply to equipment that contains or contacts fluid that is less than 5 percent organic HAP by weight. Storage tanks are not subject to requirements if the stored material has a maximum true vapor pressure less than 6.9 kilopascals. Emissions from transfer operations are exempt if the rack-weighted average partial pressure of organic HAP is less than 1.5 pounds per square inch absolute. Emissions from many continuous process operations are exempt if the HAP content is less than 0.005 weight percent, and emissions from other continuous operations and batch operations are exempt if the HAP concentration is less than 50 ppm. In addition, continuous process vents are exempt from some or all requirements if the total resource effectiveness, which is inversely related to the HAP emission rate, is greater than 1.9 or 5.0, respectively. Batch process vents are exempt from all but some recordkeeping requirements if the total organic HAP emissions from the collection of all batch vents in the process are less than 10,000 lb/yr. Strictly speaking, all Group 1 batch process vents are subject to control, regardless of their emission rate, but vents with low emission rates may not actually have to be controlled if the control or recovery from other vents in the process meets the overall reduction requirement. All of these exemption levels are based directly or depend on concentration of HAP. Furthermore, they were all developed as part of the MACT floor.

Although our earlier response did not address the issue of emulsions (or dispersions), we do not believe this should have any bearing on the exemption levels because such fluids are managed the same as other liquids. Finally, the 5 weight percent option in the Miscellaneous Coating Manufacturing NESHAP is not comparable or relevant to this discussion. That 5 percent limit was based on a determination that reducing the HAP content of existing HAP-based coating products to less than 5 percent would achieve comparable reductions to the MACT floor. A similar analysis is not feasible for miscellaneous organic chemical manufacturing processes. Therefore, we do not believe an additional exemption level is needed, and we have not created an exemption as suggested by the commenter.

2. Continuous Process Vent

Comment: Two commenters strongly objected to the proposed changes introduced in the new item 7 in the definition of the term "continuous process vent." The proposed language specified, in part, that "when a gas stream that originates as a continuous flow from a continuous operation is combined with gas streams from other process operations [], the determination of whether the gas stream is a continuous process vent must be made prior to the combination of the gas streams." One of the commenter's concerns was that the proposed changes will alter how some vents are handled under the HON and other NESHAP because the proposed language is not confined to gas streams from MCPU. For example, emission streams from batch operations within a HON process (which are batch process vents under 40 CFR part 63, subpart FFFF) that are combined with emissions from continuous operations within the HON process should not affect the point at which a continuous process vent is determined under the HON.

The commenters also believe the proposed regulatory language is far more expansive than needed to satisfy our stated reason for the change in the preamble, which they noted was to meet our intent that continuous process vents and batch process vents be separate, distinct streams. According to the commenters, only the mixing of potential continuous process vents with Group 2 process vents needs to be addressed because the rule is already clear that anything mixed with Group 1 batch process vents must be controlled. Furthermore, mixing potential continuous process vents with any other types of emission streams is already addressed by the referenced language in 40 CFR 63.107 of the HON and is consistent with the database used to determine the MACT floor for continuous process vents. As a result, both commenters strongly recommended revising the proposed language to minimize differences from the continuous process vent provisions in the HON.

Response: We agree with the commenter's assessment that several changes are needed to avoid confusion over the regulatory status of continuous process vents. First, the proposed language should have specified that the continuous operations of interest were only those in MCPU because we did not intend to affect determinations under other rules. After reconsideration, we also decided that there is no need to address the combination of potential continuous process vents and batch process vents. As the commenters pointed out, if a combined stream includes Group 1 batch process vents, the combined stream must be controlled as required for the Group 1 batch process vents. However, note that when Group 2 batch process vent emissions are combined with emissions from potential continuous process vents, the recordkeeping requirements for the Group 2 batch process vents still apply. In addition, by referring only to other *process operations* in the proposed language, we were trying to indicate that continuous process vent determinations could be downstream of the point where emissions from continuous process operations combine with emissions from storage tanks, wastewater systems, or other sources, consistent with 40 CFR 63.107.

Although our discussion in the preamble to the proposed amendments neglected to explain it, a related objective of the proposed language was to ensure that separate determinations are made for emissions from each MCPU. This concept is not part of the provisions in 40 CFR 63.107, and we continue to believe that it is important because it is consistent with the data used to develop the MACT floor for continuous process vents. Therefore, in the final amendments, we have revised item 7 in the definition of "continuous process vent" to specify that separate determinations are required for the emissions from each MCPU, even if emission streams from two or more MCPU are combined.

3. Continuous Operation

Comment: One commenter believes the definition of the term "continuous operation" should allow for the interruption of product flow during a switch from one feed tank to another if the materials are similar in nature. The commenter described a situation where a flaker or pastille maker is fed from either of two storage tanks. The commenter noted that the flaker and pastille maker equipment operates continuously, except when switching from one feed tank to the other.

Response: We have not changed the definition in the final rule because the rule already allows you to consider an operation to be a continuous operation even if there are periodic breaks in operation. We think the commenter may be misinterpreting the definition of "batch operation." Although this definition says a batch operation

involves intermittent or discontinuous feed, it also says addition of raw material and withdrawal of product do not occur simultaneously in a batch operation. Both conditions must be met to be a batch operation. Thus, even though there may be a break in operation when switching from one feed tank to another, as long as material is being added and withdrawn simultaneously while it is in operation, it is a continuous operation.

Comment: One commenter expressed concern that in our discussion of changes to the definition of "continuous process vent," we appeared to conclude that all atmospheric dryers are continuous operations with continuous process vents. The preamble stated that many atmospheric dryers "have emission characteristics that are sufficiently similar to other continuous process vents in our database such that they should be included in the definition of "continuous process vents." The commenter argued that atmospheric dryers used in batch specialty chemical manufacturing are substantively dissimilar to continuous process vents because emissions vary with time as a function of the batch cycle. Therefore, the commenter requested that we clarify that atmospheric dryer vents can be either batch or continuous process vents and that the classification is determined by an evaluation of the emission characteristics of the vent.

Response: The commenter is correct. Some atmospheric dryers are continuous operations with continuous process vents and others are batch operations with batch process vents. We did not mean to imply otherwise. As part of our analysis of the MACT floor for continuous process vents, we determined the characteristics of controlled dryers in both our continuous process database and batch process database. We confirmed that *some* of these dryers were continuous operations. Other dryers with controlled emissions were confirmed to be batch operations, and these were excluded from our analysis of continuous process vents.

4. Process Condenser and Recovery Device

Comment: Two commenters believe the proposed definition of the term "process condenser" is too expansive. The proposed definition reads as follows:

Process condenser means a condenser whose primary purpose is to recover material as an integral part of an MCPU. A primary condenser or condensers in series are considered to be integral to the MCPU if they are capable of and normally used for the purpose of recovering chemicals for fuel value (i.e., net positive heating value), use, reuse or for sale for fuel value, use, or reuse. All condensers recovering condensate from an MCPU at or above the boiling point or all condensers in line prior to a vacuum source are considered process condensers.

One of the commenters recommended modifying the definition to clarify that a condenser is not "integral to the process" if the condenser was intended to be a control device and it can be demonstrated that the process could technically or economically operate without it. This commenter described a situation where several condensers are used in a process to recover materials from gas streams. Condensate from these condensers is collected in single vessel and later reused in the process. Displaced gases from the collection vessel are routed through another condenser. Even though the final condenser recovers small amounts of material that are re-used, the commenter does not think it should be a process condenser.

The second commenter requested changes that would allow condensers to be considered an integral part of recovery devices. According to the commenter, if HAP are to be recovered from a vapor stream that is at a temperature below their bubble point, condensation must be involved at some point. For example, condensation may be necessary to dehumidify a vent stream before it enters a carbon adsorber. The commenter suggested two ways that the rule could be modified to allow condensers to be part of recovery devices. One way would be to modify the definition of the term "process condenser" to exclude condensers that meet the conditions of the second sentence of the proposed definition if those condensers also receive an emission stream that is below its bubble point, and they are located prior to any recovery device that is not a condenser. Alternatively, the commenter suggested editing the definition of the term "recovery device" to delete condensers from the list of examples of equipment that may be recovery devices, and indicate that the remaining examples of recovery devices include any integral condensation equipment.

Response: As discussed in the preamble to the proposed amendments, the main purpose of proposing a new definition was to align the requirements in the rule with the data that were used to develop the MACT floor for batch process vents. The final rule referenced the definition of "process condenser" in the Pharmaceuticals Production NESHAP. According to this definition, a condenser is a process condenser only if it supports a vapor-to-liquid phase change for periods of source equipment operation that are above the boiling or bubble point of substances at the liquid surface. Petitioners objected to this definition because they explained that it is inconsistent with the way industry representatives interpreted the term when they reported uncontrolled emissions in response to our information collection request (ICR) in 1997. They indicated that companies considered condensers to be integral to a process whenever condensate was returned to the process or used for fuel value, even if the inlet gas stream was at a temperature below the boiling or bubble point of the corresponding liquid. Thus, the final rule requires determination of uncontrolled emissions at different points than had been used in the processes that formed the basis for the MACT floor and the 10,000 lb/yr uncontrolled emissions threshold for Group 1 batch process vents.

To align the rule with the data provided in the ICR responses, we developed the proposed definition as shown above. One consequence of this definition is that it will reduce the number of condensers that can be used to comply with the 95 percent reduction recovery device option because designation as a process condenser is intended to preclude the recovery option. After considering the comments and review of the data, we have decided that the proposed definition is more expansive than it needs to be to address the issue raised by the petitioners. None of the 44 processes in the project data base that were used to establish the 10,000 lb/yr threshold for Group 1 batch process vents was controlled with a non-condenser recovery device. Therefore, we believe that condensers can be considered as part of a recovery device if they are followed by a device that is clearly a recovery device, and the condenser is needed for the proper functioning of the downstream recovery device. Rather than leave this determination open to subjective determinations, we decided to specify such exceptions to the process condenser definition in the definition itself. These situations involve condensers that remove moisture in order to prevent icing in a following condenser, remove moisture that would negatively affect adsorption capacity in a following carbon adsorber, or remove high molecular weight organic compounds or other organic compounds prior to a carbon adsorber if those compounds would be difficult to

remove during regeneration of the carbon.

In the preamble to the proposed amendments, we noted that the proposed definition of "process condenser" makes the concept of recovering chemicals with a condenser the same regardless of whether the vent is associated with a batch unit operation or a continuous unit operation. This was our intent, and, in addition, the recovery device definition also needs to be modified to allow recovery of chemicals for fuel value by devices associated with continuous process vents. To correct this oversight, the recovery device definition in the final amendments has been changed to allow equipment that is associated with continuous process vents to be a recovery device when it recovers chemicals for fuel value. The final definition retains the intent of the original definition for recovery devices that are used to reduce emissions from batch process vents; this equipment must recover chemicals to be reused in a process on site.

Finally, all of the changes described above have created a conflict between the definition of "process condenser" and "recovery device." Both definitions refer to recovery of chemicals for fuel value, use, or reuse. Thus, a condenser could meet both definitions. However, a process condenser is part of the MCPU and can not be considered a control device to meet the 95 percent control alternative in table 2.

J. Miscellaneous Technical Corrections

We have made several changes throughout subpart FFFF to correct inconsistencies that have been discovered during the review processes. Other editorial changes have also been made to improve clarity. These changes are described in Table 1 in this preamble.

TABLE 1.—MISCELLANEOUS TECHNICAL CORRECTIONS TO 40 CFR PART 63, SUBPART FFFF

Section of subpart FFFF	Description of correction
40 CFR 63.2435(b)(2) and 63.2525(e)(1)(i)	Replaced the word "produces" with the word "generates" to clarify that generation of any HAP, not only HAP that are an intended product, makes the MCPU subject to 40 CFR part 63, subpart FFFF.
40 CFR 63.2450(d), (e), and (f)	1. Redesignated paragraphs (d), (e), and (f) as paragraphs (e)(1), (2), and (3). 2. Reserved paragraph (d). 3. Added a new paragraph (f) to clarify flare compliance assessment procedures. Section 63.11(b)(6) of the General Provisions contains alternative procedures for flares that control hydrogen emissions. The alternative procedures are not included in 40 CFR part 63, subpart SS. The new provisions in paragraph (f) clarify that the alternative in the General Provisions is available under 40 CFR part 63, subpart FFFF.
40 CFR 63.2470(e)(2)(i) and (ii) and 63.2535(a)(2).	Offsite cleaning and reloading facilities must control emissions from tank trucks and railcars that are used in vapor balancing for storage tanks at the affected source. The final amendments include these new paragraphs to specify that such facilities may comply with the monitoring, recordkeeping, and reporting requirements in other applicable rules in 40 CFR part 63 as an alternative to the requirements in subpart FFFF. These changes make the requirements consistent with parallel requirements in 40 CFR part 63, subpart GGG.
40 CFR 63.2485(n)(2)(iv)(B)	Replaced "F_{bio}" with "f_{bio}."
40 CFR 63.2520(d)(2)(ix)	Replaced incorrect reference to 40 CFR 63.2535(i)(1) with correct reference to 40 CFR 63.2535(l)(1).
40 CFR 63.2520(e)(9) and 63.2525(a)	Restored references to 40 CFR part 63, subpart UU that were mistakenly removed in the proposed amendments.
40 CFR 63.2525(e)(1)(iii)	Replaced the undefined term "Group 2 batches" with the defined term "Group 2 batch process vents."
40 CFR 63.2550(b)	Added reference to terms defined in section 63.2 of 40 CFR part 65, subpart F.
40 CFR 63.2550(c)	Did not finalize proposed amendment that mistakenly removed this paragraph.
40 CFR 63.2550(i) introductory text	Restored reference to 40 CFR 63.1020, which was mistakenly removed in the proposed amendments.
40 CFR 63.2550(i)	1. Added definitions for the term "emission point". 2. Added a sentence to the definition of "isolated intermediate" to clarify that the storage equipment is part of the process that produces the isolated intermediate, not a process that uses the isolated intermediate as a raw material. The new sentence also clarifies that isolated intermediate storage equipment is not subject to the storage tank assignment procedures in 40 CFR 63.2445(d).
Table 3	Removed the extraneous word "with" from item 1.a.
Tables 4 and 5	Replaced references to 40 CFR 63.984 with references to 40 CFR 63.982(d). 40 CFR 63.982(d) not only references 40 CFR 63.984, but it also makes it clear that requirements for boilers and process heaters do not apply to fuel gas systems.

IV. Statutory and Executive Order Reviews

A. Executive Order 12866: Regulatory Planning and Review

Under Executive Order 12866 (58 FR 51735, October 4, 1993), EPA must determine whether the regulatory action is "significant" and, therefore, subject to Office of Management and Budget (OMB) review and the requirements of the Executive Order. The Executive Order defines "significant regulatory action" as one that is likely to result in a rule that may:

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

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

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

(4) Raise novel legal or policy issues arising out of legal mandates, the

President's priorities, or the principles set forth in the Executive Order.

It has been determined that this rule is not a "significant regulatory action" under the terms of Executive Order 12866 and is therefore not subject to OMB review.

B. Paperwork Reduction Act

This action does not impose any new information collection burden. The final amendments give owners and operators options to some requirements. For example, biofilters are allowed as an option to meet the emission limit for batch process vents. Other changes may result in a minor reduction in the burden. For example, one option allows an owner or operator to conduct sensory monitoring as an alternative to instrument monitoring of connectors. Another change eliminates the requirement to include data and results from an engineering assessment of emissions from batch operations in the precompliance report if the HAP concentration is determined to be less than 50 ppmv. Since all of these changes are either options or have the potential to result in minor reductions in the information collection burden, the ICR has not been revised.

OMB has previously approved the information collection requirements contained in the existing regulations (40 CFR part 63, subpart FFFF) under the provisions of the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.*, and has assigned OMB control number 2060–0533 (EPA ICR number 1969.02). A copy of the OMB approved ICR may be obtained from Susan Auby, Collection Strategies Division; U.S. EPA (2822T); 1200 Pennsylvania Ave., NW., Washington, DC 20460, or by calling (202) 566–1672. Include the ICR or OMB number in any correspondence.

Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. The OMB control numbers for EPA's regulations are listed in 40 CFR part 9.

C. Regulatory Flexibility Act

EPA has determined that it is not necessary to prepare a regulatory flexibility analysis in connection with the final rule amendments.

For purposes of assessing the impacts of the final rule amendments on small entities, small entity is defined as: (1) A small business ranging from up to 500 employees to up to 1,000 employees, depending on the NAICS code; (2) a small governmental jurisdiction that is a government of a city, county, town, school district, or special district with a population of less than 50,000; or (3) a small organization that is any not-for-profit enterprise that is independently owned and operated and is not dominant in its field. The maximum number of employees to be considered a small business for each NAICS code is shown in the preamble to the proposed rule (67 FR 16178).

After considering the economic impacts of the final rule amendments on small entities, EPA has concluded that this action will not have a significant economic impact on a substantial number of small entities. In determining whether a rule has a significant economic impact on a substantial number of small entities, the impact of concern is any significant *adverse* economic impact on small entities, since the primary purpose of the regulatory flexibility analyses is to identify and address regulatory alternatives "which minimize any significant economic impact of the proposed rule on small entities." 5 U.S.C. 603 and 604. Thus, an agency may conclude that a rule will not have a significant economic impact on a substantial number of small entities if the rule relieves regulatory burden, or otherwise has a positive economic effect on all of the small entities subject to the rule. The final amendments include additional compliance options for process tanks, batch process vents, equipment leaks, and SHAP-containing wastewater that provide small entities with greater flexibility to comply with the standards. Other amendments potentially reduce the recordkeeping and reporting burden. We have therefore concluded that the final rule amendments will relieve regulatory burden for all small entities.

D. Unfunded Mandates Reform Act

Title II of the Unfunded Mandates Reform Act (UMRA) of 1995, Public Law 104–4, establishes requirements for Federal agencies to assess the effects of their regulatory actions on State, local, and tribal governments and the private sector. Under section 202 of the UMRA, EPA generally must prepare a written statement, including a cost-benefit analysis, for proposed and final rules with "Federal mandates" that may result in expenditures to State, local, and tribal governments, in the aggregate, or to the private sector, of $100 million or more in any 1 year. Before promulgating an EPA rule for which a written statement is needed, section 205 of the UMRA generally requires EPA to identify and consider a reasonable number of regulatory alternatives and adopt the least-costly, most cost-effective, or least-burdensome alternative that achieves the objectives of the rule. The provisions of section 205 do not apply when they are inconsistent with applicable law. Moreover, section 205 allows EPA to adopt an alternative other than the least costly, most cost-effective, or least burdensome alternative if the Administrator publishes with the final rule an explanation why that alternative was not adopted. Before EPA establishes any regulatory requirements that may significantly or uniquely affect small governments, including tribal governments, it must have developed under section 203 of the UMRA a small government agency plan. The plan must provide for notifying potentially affected small governments, enabling officials of affected small governments to have meaningful and timely input in the development of EPA regulatory proposals with significant Federal intergovernmental mandates, and informing, educating, and advising small governments on compliance with the regulatory requirements.

The EPA has determined that the final amendments do not contain a Federal mandate that may result in expenditures of $100 million or more for State, local, and tribal governments, in the aggregate, or the private sector in any 1 year. The maximum total annual costs of the final rule for any year was estimated to be about $75 million, and the final amendments do not add new requirements that would increase that cost. Thus, the final amendments are not subject to the requirements of sections 202 and 205 of the UMRA. In addition, the final amendments contain no regulatory requirements that might significantly or uniquely affect small governments because they contain no requirements that apply to such governments or impose obligations upon them. Therefore, the final

amendments are not subject to the requirements of section 203 of the UMRA.

E. Executive Order 13132: Federalism

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

The final rule amendments do not have federalism implications. They will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132. None of the affected facilities are owned or operated by State or local governments. Thus, Executive Order 13132 does not apply to the final rule amendments.

F. Executive Order 13175: Consultation and Coordination With Indian Tribal Governments

Executive Order 13175 (65 FR 67249, November 9, 2000), requires EPA to develop an accountable process to ensure "meaningful and timely input by tribal officials in the development of regulatory policies that have tribal implications." The final rule amendments do not have tribal implications, as specified in Executive Order 13175. The final rule amendments provide an owner or operator with several additional options for complying with the emission limits and other requirements in the rule. Therefore, the final rule amendments will not have substantial direct effects on tribal governments, on the relationship between the Federal government and Indian tribes, or on the distribution of power and responsibilities between the Federal government and Indian tribes. Thus, Executive Order 13175 does not apply to the final amendments.

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

Executive Order 13045 (62 FR 19885, April 23, 1997) applies to any rule that: (1) Is determined to be "economically significant" as defined under Executive Order 12866, and (2) concerns an environmental health or safety risk that EPA has reason to believe may have a disproportionate effect on children. If the regulatory action meets both criteria, EPA must evaluate the environmental health or safety effects of the planned rule on children, and explain why the planned regulation is preferable to other potentially effective and reasonably feasible alternatives considered by the Agency.

EPA interprets Executive Order 13045 as applying only to those regulatory actions that are based on health or safety risks, such that the analysis required under section 5–501 of the Executive Order has the potential to influence the regulation. The final amendments are not subject to the Executive Order because they are based on technology performance and not on health or safety risks.

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

The final rule amendments do not constitute a "significant energy action" as defined in Executive Order 13211, "Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use" (66 FR 28355, May 22, 2001) because they are not likely to have a significant adverse effect on the supply, distribution, or use of energy. The final amendments include additional compliance options that provide affected sources with greater flexibility to comply with the standards. Further, we have concluded that the final rule amendments are not likely to have any adverse energy effects.

I. National Technology Transfer and Advancement Act

As noted in the proposed rule, Section 12(d) of the National Technology Transfer and Advancement Act (NTTAA) of 1995, Public Law No. 104–113, 12(d) (15 U.S.C. 272 note) directs EPA to use voluntary consensus standards (VCS) in its regulatory activities unless to do so would be inconsistent with applicable law or otherwise impractical. VCS are technical standards (e.g., materials specifications, test methods, sampling procedures, and business practices) that are developed or adopted by VCS bodies. The NTTAA directs EPA to provide Congress, through OMB, explanations when the Agency does not use available and applicable VCS.

During the rulemaking, the EPA conducted searches to identify VCS in addition to EPA test methods referenced by the final rule. The search and review results have been documented and placed in the docket for the NESHAP (Docket EPA–HQ–OAR–2003–0121). The final amendments do not require the use of any additional technical standards beyond those cited in the final rule. Therefore, EPA is not considering the use of any additional VCS for the final amendments.

J. Congressional Review Act

The Congressional Review Act, 5 U.S.C. 801, *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing the final rule amendments and other required information to the United States Senate, the United States House of Representatives, and the Comptroller General of the United States prior to publication of the final rule amendments 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). The final rule amendments are effective on July 14, 2006.

List of Subjects in 40 CFR Part 63

Environmental protection, Administrative practice and procedure, Air pollution control, Hazardous substances, Intergovernmental relations, Reporting and recordkeeping requirements.

Dated: June 23, 2006.

Stephen L. Johnson,

Administrator.

■ For the reasons stated in the preamble, title 40, chapter I, part 63 of the Code of the Federal Regulations is amended as follows:

PART 63—[AMENDED]

■ 1. The authority citation for part 63 continues to read as follows:

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

Subpart FFFF—[Amended]

■ 2. Section 63.2435 is amended by:
■ a. Revising "product transfer racks" to read "transfer racks" in paragraph (b) introductory text;
■ b. Revising paragraphs (b)(1)(i), (b)(1)(ii), and (b)(2);
■ c. Revising paragraph (c) introductory text;
■ d. Revising paragraph (c)(4); and

■ e. Adding new paragraph (c)(7) to read as follows:

§ 63.2435 Am I subject to the requirements in this subpart?

* * * * *

(b) * * *

(1) * * *

(i) An organic chemical(s) classified using the 1987 version of SIC code 282, 283, 284, 285, 286, 287, 289, or 386, except as provided in paragraph (c)(5) of this section.

(ii) An organic chemical(s) classified using the 1997 version of NAICS code 325, except as provided in paragraph (c)(5) of this section.

* * * * *

(2) The MCPU processes, uses, or generates any of the organic HAP listed in section 112(b) of the CAA or hydrogen halide and halogen HAP, as defined in § 63.2550.

* * * * *

(c) The requirements in this subpart do not apply to the operations specified in paragraphs (c)(1) through (7) of this section.

* * * * *

(4) Fabricating operations (such as spinning or compressing a solid polymer into its end use); compounding operations (in which blending, melting, and resolidification of a solid polymer product occur for the purpose of incorporating additives, colorants, or stabilizers); and extrusion and drawing operations (converting an already produced solid polymer into a different shape by melting or mixing the polymer and then forcing it or pulling it through an orifice to create an extruded product). An operation is not exempt if it involves processing with HAP solvent or if an intended purpose of the operation is to remove residual HAP monomer.

* * * * *

(7) Carbon monoxide production.

* * * * *

■ 3. Section 63.2445 is amended by:

■ a. Revising paragraph (b) and the first sentence in paragraph (c); and

■ b. Adding new paragraphs (d), (e), and (f) to read as follows:

§ 63.2445 When do I have to comply with this subpart?

* * * * *

(b) If you have an existing source on November 10, 2003, you must comply with the requirements for existing sources in this subpart no later than May 10, 2008.

(c) You must meet the notification requirements in § 63.2515 according to the dates specified in that section and in subpart A of this part 63. * * *

(d) If you have a Group 2 emission point that becomes a Group 1 emission point after the compliance date for your affected source, you must comply with the Group 1 requirements beginning on the date the switch occurs. An initial compliance demonstration as specified in this subpart must be conducted within 150 days after the switch occurs.

(e) If, after the compliance date for your affected source, hydrogen halide and halogen HAP emissions from process vents in a process increase to more than 1,000 lb/yr, or HAP metals emissions from a process at a new affected source increase to more than 150 lb/yr, you must comply with the applicable emission limits specified in Table 3 to this subpart and the associated compliance requirements beginning on the date the emissions exceed the applicable threshold. An initial compliance demonstration as specified in this subpart must be conducted within 150 days after the switch occurs.

(f) If you have a small control device for process vent or transfer rack emissions that becomes a large control device, as defined in § 63.2550(i), you must comply with monitoring and associated recordkeeping and reporting requirements for large control devices beginning on the date the switch occurs. An initial compliance demonstration as specified in this subpart must be conducted within 150 days after the switch occurs.

■ 4. Section 63.2450 is amended by:

■ a. Removing and reserving paragraph (d);

■ b. Revising paragraphs (e) and (f);

■ c. Revising paragraph (h);

■ d. Revising paragraph (k) introductory text, paragraph (k)(3), paragraph (k)(4) introductory text, and paragraph (k)(4)(i); and

■ e. Adding new paragraphs (k)(4)(iv), (k)(5), and (k)(6) to read as follows:

§ 63.2450 What are my general requirements for complying with this subpart?

* * * * *

(d) [Reserved]

(e) *Requirements for control devices.*

(1) Except when complying with § 63.2485, if you reduce organic HAP emissions by venting emissions through a closed-vent system to any combination of control devices (except a flare) or recovery devices, you must meet the requirements of § 63.982(c) and the requirements referenced therein.

(2) Except when complying with § 63.2485, if you reduce organic HAP emissions by venting emissions through a closed-vent system to a flare, you must meet the requirements of § 63.982(b) and the requirements referenced therein.

(3) If you use a halogen reduction device to reduce hydrogen halide and halogen HAP emissions from halogenated vent streams, you must meet the requirements of § 63.994 and the requirements referenced therein. If you use a halogen reduction device before a combustion device, you must determine the halogen atom emission rate prior to the combustion device according to the procedures in § 63.115(d)(2)(v).

(f) *Requirements for flare compliance assessments.*

(1) As part of a flare compliance assessment required in § 63.987(b), you have the option of demonstrating compliance with the requirements of § 63.11(b) by complying with the requirements in either § 63.11(b)(6)(i) or § 63.987(b)(3)(ii).

(2) If you elect to meet the requirements in § 63.11(b)(6)(i), you must keep flare compliance assessment records as specified in paragraphs (f)(2)(i) and (ii) of this section.

(i) Keep records as specified in § 63.998(a)(1)(i), except that a record of the heat content determination is not required.

(ii) Keep records of the flare diameter, hydrogen content, exit velocity, and maximum permitted velocity. Include these records in the flare compliance report required in § 63.999(a)(2).

* * * * *

(h) *Design evaluation.* To determine the percent reduction of a small control device that is used to comply with an emission limit specified in Table 1, 2, 3, or 5 to this subpart, you may elect to conduct a design evaluation as specified in § 63.1257(a)(1) instead of a performance test as specified in subpart SS of this part 63. You must establish the value(s) and basis for the operating limits as part of the design evaluation. For continuous process vents, the design evaluation must be conducted at maximum representative operating conditions for the process, unless the Administrator specifies or approves alternate operating conditions. For transfer racks, the design evaluation must demonstrate that the control device achieves the required control efficiency during the reasonably expected maximum transfer loading rate.

* * * * *

(k) *Continuous parameter monitoring.* The provisions in paragraphs (k)(1) through (6) of this section apply in addition to the requirements for continuous parameter monitoring

system (CPMS) in subpart SS of this part 63.

* * * * *

(3) As an alternative to continuously measuring and recording pH as specified in §§ 63.994(c)(1)(i) and 63.998(a)(2)(ii)(D), you may elect to continuously monitor and record the caustic strength of the effluent. For halogen scrubbers used to control only batch process vents you may elect to monitor and record either the pH or the caustic strength of the scrubber effluent at least once per day.

(4) As an alternative to the inlet and outlet temperature monitoring requirements for catalytic incinerators as specified in § 63.988(c)(2) and the related recordkeeping requirements specified in § 63.998(a)(2)(ii)(B)(*2*) and (c)(2)(ii), you may elect to comply with the requirements specified in paragraphs (k)(4)(i) through (iv) of this section.

(i) Monitor and record the inlet temperature as specified in subpart SS of this part 63.

* * * * *

(iv) Recording the downstream temperature and temperature difference across the catalyst bed as specified in § 63.998(a)(2)(ii)(B)(*2*) and (b)(2)(ii) is not required.

(5) For absorbers that control organic compounds and use water as the scrubbing fluid, you must conduct monitoring and recordkeeping as specified in paragraphs (k)(5)(i) through (iii) of this section instead of the monitoring and recordkeeping requirements specified in §§ 63.990(c)(1), 63.993(c)(1), and 63.998(a)(2)(ii)(C).

(i) You must use a flow meter capable of providing a continuous record of the absorber influent liquid flow.

(ii) You must determine gas stream flow using one of the procedures specified in § 63.994(c)(1)(ii)(A) through (D).

(iii) You must record the absorber liquid-to-gas ratio averaged over the time period of any performance test.

(6) For a control device with total inlet HAP emissions less than 1 tpy, you must establish an operating limit(s) for a parameter(s) that you will measure and record at least once per averaging period (i.e., daily or block) to verify that the control device is operating properly. You may elect to measure the same parameter(s) that is required for control devices that control inlet HAP emissions equal to or greater than 1 tpy. If the parameter will not be measured continuously, you must request approval of your proposed procedure in the precompliance report. You must identify the operating limit(s) and the measurement frequency, and you must provide rationale to support how these measurements demonstrate the control device is operating properly.

* * * * *

■ 5. Section 63.2460 is amended by:

■ a. Revising paragraph (b) introductory text and paragraphs (b)(1), (b)(2), and (b)(3);

■ b. Redesignating paragraph (b)(4) as paragraph (b)(5) and revising "paragraph (b)(4)(i), (ii), or (iii)" to read "paragraph (b)(5)(i), (ii), or (iii)" in redesignated paragraph (b)(5) introductory text;

■ c. Adding new paragraphs (b)(4), (b)(6), and (b)(7);

■ d. Revising paragraph (c) introductory text, paragraph (c)(1), paragraph (c)(2)(iii), and the first sentence in paragraph (c)(2)(v);

■ e. Removing and reserving paragraph (c)(5), and

■ f. Adding new paragraphs (c)(8) and (c)(9) to read as follows:

§ 63.2460 What requirements must I meet for batch process vents?

* * * * *

(b) *Group status.* If a process has batch process vents, as defined in § 63.2550, you must determine the group status of the batch process vents by determining and summing the uncontrolled organic HAP emissions from each of the batch process vents within the process using the procedures specified in § 63.1257(d)(2)(i) and (ii), except as specified in paragraphs (b)(1) through (7) of this section.

(1) To calculate emissions caused by the heating of a vessel without a process condenser to a temperature lower than the boiling point, you must use the procedures in § 63.1257(d)(2)(i)(C)(*3*).

(2) To calculate emissions from depressurization of a vessel without a process condenser, you must use the procedures in § 63.1257(d)(2)(i)(D)(*10*).

(3) To calculate emissions from vacuum systems for the purposes of this subpart, the receiving vessel is part of the vacuum system, and terms used in Equation 33 to 40 CFR part 63, subpart GGG, are defined as follows:

P_{system} = absolute pressure of the receiving vessel;

P_i = partial pressure of the HAP determined at the exit temperature and exit pressure conditions of the condenser or at the conditions of the dedicated receiver;

P_j = partial pressure of condensables (including HAP) determined at the exit temperature and exit pressure conditions of the condenser or at the conditions of the dedicated receiver;

MW_{HAP} = molecular weight of the HAP determined at the exit temperature and exit pressure conditions of the condenser or at the conditions of the dedicated receiver.

(4) To calculate uncontrolled emissions when a vessel is equipped with a process condenser, you must use the procedures in § 63.1257(d)(3)(i)(B), except as specified in paragraphs (b)(4)(i) through (vii) of this section.

(i) You must determine the flowrate of gas (or volume of gas), partial pressures of condensables, temperature (T), and HAP molecular weight (MW_{HAP}) at the exit temperature and exit pressure conditions of the condenser or at the conditions of the dedicated receiver.

(ii) You must assume that all of the components contained in the condenser exit vent stream are in equilibrium with the same components in the exit condensate stream (except for noncondensables).

(iii) You must perform a material balance for each component.

(iv) For the emissions from gas evolution, the term for time, t, must be used in Equation 12 to 40 CFR part 63, subpart GGG.

(v) Emissions from empty vessel purging shall be calculated using Equation 36 to 40 CFR part 63, subpart GGG and the exit temperature and exit pressure conditions of the condenser or the conditions of the dedicated receiver.

(vi) You must conduct an engineering assessment as specified in § 63.1257(d)(2)(ii) for each emission episode that is not due to vapor displacement, purging, heating, depressurization, vacuum operations, gas evolution, air drying, or empty vessel purging. The requirements of paragraphs (b)(3) through (4) of this section shall apply.

(vii) You may elect to conduct an engineering assessment if you can demonstrate to the Administrator that the methods in § 63.1257(d)(3)(i)(B) are not appropriate.

* * * * *

(6) You may change from Group 2 to Group 1 in accordance with either paragraph (b)(6)(i) or (ii) of this section. You must comply with the requirements of this section and submit the test report in the next Compliance report.

(i) You may switch at any time after operating as Group 2 for at least 1 year so that you can show compliance with the 10,000 pounds per year (lb/yr) threshold for Group 2 batch process vents for at least 365 days before the switch. You may elect to start keeping records of emissions from Group 2 batch process vents before the compliance date. Report a switch based on this

provision in your next compliance report in accordance with § 63.2520(e)(10)(i).

(ii) If the conditions in paragraph (b)(6)(i) of this section are not applicable, you must provide a 60-day advance notice in accordance with § 63.2520(e)(10)(ii) before switching.

(7) As an alternative to determining the uncontrolled organic HAP emissions as specified in § 63.1257(d)(2)(i) and (ii), you may elect to demonstrate that non-reactive organic HAP are the only HAP used in the process and non-reactive HAP usage in the process is less than 10,000 lb/yr. You must provide data and supporting rationale in your notification of compliance status report explaining why the non-reactive organic HAP usage will be less than 10,000 lb/yr. You must keep records of the non-reactive organic HAP usage as specified in § 63.2525(e)(2) and include information in compliance reports as specified in § 63.2520(e)(5)(iv).

(c) Exceptions to the requirements in subparts SS and WW of this part 63 are specified in paragraphs (c)(1) through (9) of this section.

(1) *Process condensers.* Process condensers, as defined in § 63.2550(i), are not considered to be control devices for batch process vents. You must determine whether a condenser is a control device for a batch process vent or a process condenser from which the uncontrolled HAP emissions are evaluated as part of the initial compliance demonstration for each MCPU and report the results with supporting rationale in your notification of compliance status report.

(2) * * *

(iii) As an alternative to conducting a performance test or design evaluation to demonstrate initial compliance with a percent reduction requirement for a condenser, you may determine controlled emissions using the procedures specified in § 63.1257(d)(3)(i)(B) and paragraphs (b)(3) through (4) of this section.

* * * * *

(v) If a process condenser is used for any boiling operations, you must demonstrate that it is properly operated according to the procedures specified in § 63.1257(d)(2)(i)(C)(*4*)(*ii*) and (d)(3)(iii)(B), and the demonstration must occur only during the boiling operation. * * *

* * * * *

(8) *Terminology.* When the term "storage vessel" is used in subpart WW of this part 63, the term "process tank," as defined in § 63.2550(i), applies for the purposes of this section.

(9) *Requirements for a biofilter.* If you use a biofilter to meet either the 95 percent reduction requirement or outlet concentration requirement specified in Table 2 to this subpart, you must meet the requirements specified in paragraphs (c)(9)(i) through (iv) of this section.

(i) *Operational requirements.* The biofilter must be operated at all times when emissions are vented to it.

(ii) *Performance tests.* To demonstrate initial compliance, you must conduct a performance test according to the procedures in § 63.997 and paragraphs (c)(9)(ii)(A) through (D) of this section. The design evaluation option for small control devices is not applicable if you use a biofilter.

(A) Keep up-to-date, readily accessible continuous records of either the biofilter bed temperature averaged over the full period of the performance test or the outlet total organic HAP or TOC concentration averaged over the full period of the performance test. Include these data in your notification of compliance status report as required by § 63.999(b)(3)(ii).

(B) Record either the percent reduction of total organic HAP achieved by the biofilter determined as specified in § 63.997(e)(2)(iv) or the concentration of TOC or total organic HAP determined as specified in § 63.997(e)(2)(iii) at the outlet of the biofilter, as applicable.

(C) If you monitor the biofilter bed temperature, you may elect to use multiple thermocouples in representative locations throughout the biofilter bed and calculate the average biofilter bed temperature across these thermocouples prior to reducing the temperature data to 15 minute (or shorter) averages for purposes of establishing operating limits for the biofilter. If you use multiple thermocouples, include your rationale for their site selection in your notification of compliance status report.

(D) Submit a performance test report as specified in § 63.999(a)(2)(i) and (ii). Include the records from paragraph (c)(9)(ii)(B) of this section in your performance test report.

(iii) *Monitoring requirements.* Use either a biofilter bed temperature monitoring device (or multiple devices) capable of providing a continuous record or an organic monitoring device capable of providing a continuous record. Keep records of temperature or other parameter monitoring results as specified in § 63.998(b) and (c), as applicable. General requirements for monitoring are contained in § 63.996. If you monitor temperature, the operating temperature range must be based on only the temperatures measured during the performance test; these data may not be supplemented by engineering assessments or manufacturer's recommendations as otherwise allowed in § 63.999(b)(3)(ii)(A). If you establish the operating range (minimum and maximum temperatures) using data from previous performance tests in accordance with § 63.996(c)(6), replacement of the biofilter media with the same type of media is not considered a process change under § 63.997(b)(1). You may expand your biofilter bed temperature operating range by conducting a repeat performance test that demonstrates compliance with the 95 percent reduction requirement or outlet concentration limit, as applicable.

(iv) *Repeat performance tests.* You must conduct a repeat performance test using the applicable methods specified in § 63.997 within 2 years following the previous performance test and within 150 days after each replacement of any portion of the biofilter bed media with a different type of media or each replacement of more than 50 percent (by volume) of the biofilter bed media with the same type of media.

■ 6. Section 63.2465 is amended by revising the section heading, paragraph (b), and paragraph (d) to read as follows:

§ 63.2465 What requirements must I meet for process vents that emit hydrogen halide and halogen HAP or HAP metals?

* * * * *

(b) If any process vents within a process emit hydrogen halide and halogen HAP, you must determine and sum the uncontrolled hydrogen halide and halogen HAP emissions from each of the process vents within the process using the procedures specified in § 63.1257(d)(2)(i) and/or (ii), as appropriate. When § 63.1257(d)(2)(ii)(E) requires documentation to be submitted in the precompliance report, it means the notification of compliance status report for the purposes of this paragraph.

* * * * *

(d) To demonstrate compliance with the emission limit in Table 3 to this subpart for HAP metals at a new source, you must comply with paragraphs (d)(1) through (3) of this section.

(1) Determine the mass emission rate of HAP metals based on process knowledge, engineering assessment, or test data.

(2) Conduct an initial performance test of each control device that is used to comply with the emission limit for HAP metals specified in Table 3 to this subpart. Conduct the performance test according to the procedures in § 63.997. Use Method 29 of appendix A of 40 CFR part 60 to determine the HAP metals at the inlet and outlet of each control

device, or use Method 5 of appendix A of 40 CFR part 60 to determine the total particulate matter (PM) at the inlet and outlet of each control device. You have demonstrated initial compliance if the overall reduction of either HAP metals or total PM from the process is greater than or equal to 97 percent by weight.

(3) Comply with the monitoring requirements specified in § 63.1366(b)(1)(xi) for each fabric filter used to control HAP metals.

■ 7. Section 63.2470 is amended by:

■ a. Removing and reserving paragraph (b); and

■ b. Revising paragraph (e)(2) to read as follows:

§ 63.2470 What requirements must I meet for storage tanks?

* * * * *

(e) * * *

(2) To comply with § 63.1253(f)(6)(i), the owner or operator of an offsite cleaning or reloading facility must comply with §§ 63.2445 through 63.2550 instead of complying with § 63.1253(f)(7)(ii), except as specified in paragraph (e)(2)(i) or (ii) of this section.

(i) The reporting requirements in § 63.2520 do not apply to the owner or operator of the offsite cleaning or reloading facility.

(ii) As an alternative to complying with the monitoring, recordkeeping, and reporting provisions in §§ 63.2445 through 63.2550, the owner or operator of an offsite cleaning or reloading facility may comply as specified in § 63.2535(a)(2) with any other subpart of this part 63 which has monitoring, recordkeeping, and reporting provisions as specified in § 63.2535(a)(2).

* * * * *

■ 8. Section 63.2475 is amended by removing paragraph (c).

■ 9. Section 63.2480 is revised to read as follows:

§ 63.2480 What requirements must I meet for equipment leaks?

(a) You must meet each requirement in Table 6 to this subpart that applies to your equipment leaks, except as specified in paragraphs (b) through (d) of this section.

(b) If you comply with either subpart H or subpart UU of this part 63, you may elect to comply with the provisions in paragraphs (b)(1) through (5) of this section as an alternative to the referenced provisions in subpart H or subpart UU of this part.

(1) The requirements for pressure testing in § 63.179(b) or § 63.1036(b) may be applied to all processes, not just batch processes.

(2) For the purposes of this subpart, pressure testing for leaks in accordance with § 63.179(b) or § 63.1036(b) is not required after reconfiguration of an equipment train if flexible hose connections are the only disturbed equipment.

(3) For an existing source, you are not required to develop an initial list of identification numbers for connectors as would otherwise be required under § 63.1022(b)(1) or § 63.181(b)(1)(i).

(4) For connectors in gas/vapor and light liquid service at an existing source, you may elect to comply with the requirements in § 63.169 or § 63.1029 for connectors in heavy liquid service, including all associated recordkeeping and reporting requirements, rather than the requirements of § 63.174 or § 63.1027.

(5) For pumps in light liquid service in an MCPU that has no continuous process vents and is part of an existing source, you may elect to consider the leak definition that defines a leak to be 10,000 parts per million (ppm) or greater as an alternative to the values specified in § 63.1026(b)(2)(i) through (iii) or § 63.163(b)(2).

(c) If you comply with 40 CFR part 65, subpart F, you may elect to comply with the provisions in paragraphs (c)(1) through (9) of this section as an alternative to the referenced provisions in 40 CFR part 65, subpart F.

(1) The requirements for pressure testing in § 65.117(b) may be applied to all processes, not just batch processes.

(2) For the purposes of this subpart, pressure testing for leaks in accordance with § 65.117(b) is not required after reconfiguration of an equipment train if flexible hose connections are the only disturbed equipment.

(3) For an existing source, you are not required to develop an initial list of identification numbers for connectors as would otherwise be required under § 65.103(b)(1).

(4) You may elect to comply with the monitoring and repair requirements specified in § 65.108(e)(3) as an alternative to the requirements specified in § 65.108(a) through (d) for any connectors at your affected source.

(5) For pumps in light liquid service in an MCPU that has no continuous process vents and is part of an existing source, you may elect to consider the leak definition that defines a leak to be 10,000 ppm or greater as an alternative to the values specified in § 65.107(b)(2)(i) through (iii).

(6) When 40 CFR part 65, subpart F refers to the implementation date specified in § 65.1(f), it means the compliance date specified in § 63.2445.

(7) When §§ 65.105(f) and 65.117(d)(3) refer to § 65.4, it means § 63.2525.

(8) When § 65.120(a) refers to § 65.5(d), it means § 63.2515.

(9) When § 65.120(b) refers to § 65.5(e), it means § 63.2520.

(d) The provisions of this section do not apply to bench-scale processes, regardless of whether the processes are located at the same plant site as a process subject to the provisions of this subpart.

■ 10. Section 63.2485 is amended by revising paragraph (a) and paragraphs (c)(1) through (3) and by adding new paragraphs (m), (n), and (o) to read as follows:

§ 63.2485 What requirements must I meet for wastewater streams and liquid streams in open systems within an MCPU?

(a) You must meet each requirement in Table 7 to this subpart that applies to your wastewater streams and liquid streams in open systems within an MCPU, except as specified in paragraphs (b) through (o) of this section.

* * * * *

(c) * * *

(1) The total annual average concentration of compounds in Table 8 to this subpart is greater than or equal to 10,000 ppmw at any flowrate, and the total annual load of compounds in Table 8 to this subpart is greater than or equal to 200 lb/yr.

(2) The total annual average concentration of compounds in Table 8 to this subpart is greater than or equal to 1,000 ppmw, and the annual average flowrate is greater than or equal to 1 l/min.

(3) The combined total annual average concentration of compounds in Tables 8 and 9 to this subpart is greater than or equal to 30,000 ppmw, and the combined total annual load of compounds in Tables 8 and 9 to this subpart is greater than or equal to 1 tpy.

* * * * *

(m) When § 63.132(f) refers to "a concentration of greater than 10,000 ppmw of Table 9 compounds," the phrase "a concentration of greater than 30,000 ppmw of total partially soluble HAP (PSHAP) and soluble HAP (SHAP) or greater than 10,000 ppmw of PSHAP" shall apply for the purposes of this subpart.

(n) *Alternative requirements for wastewater that is Group 1 for soluble HAP only.* The option specified in this paragraph (n) applies to wastewater that is Group 1 for soluble HAP in accordance with paragraph (c)(3) of this section and is discharged to biological treatment. Except as provided in paragraph (n)(4) of this section, this option does not apply to wastewater

that is Group 1 for partially soluble HAP in accordance with paragraph (c)(1), (c)(2), or (c)(4) of this section. For wastewater that is Group 1 for SHAP, you need not comply with §§ 63.133 through 63.137 for any equalization unit, neutralization unit, and/or clarifier prior to the activated sludge unit, and you need not comply with the venting requirements in § 63.136(e)(2)(ii)(A) for lift stations with a volume larger than 10,000 gal, provided you comply with the requirements specified in paragraphs (n)(1) through (3) of this section and all otherwise applicable requirements specified in Table 7 to this subpart. For this option, the treatment requirements in § 63.138 and the performance testing requirements in § 63.145 do not apply to the biological treatment unit, except as specified in paragraphs (n)(2)(i) through (iv) of this section.

(1) Wastewater must be hard-piped between the equalization unit, clarifier, and activated sludge unit. This requirement does not apply to the transfer between any of these types of units that are part of the same structure and one unit overflows into the next.

(2) Calculate the destruction efficiency of the biological treatment unit using Equation 1 of this section in accordance with the procedures described in paragraphs (n)(2)(i) through (vi) of this section. You have demonstrated initial compliance if E is greater than or equal to 90 percent.

$$E = \frac{(QMW_a - QMG_e - QMG_n - QMG_c)(F_{bio})}{QMW_a} \times 100 \qquad \text{(Eq. 1)}$$

Where:

E = destruction efficiency of total PSHAP and SHAP for the biological treatment unit including the equalization unit, neutralization unit, and/or clarifier, percent;

QMW_a = mass flow rate of total PSHAP and SHAP compounds entering the equalization unit (or whichever of the three types of units is first), kilograms per hour (kg/hr);

QMG_e = mass flow rate of total PSHAP and SHAP compounds emitted from the equalization unit, kg/hr;

QMG_n = mass flow rate of total PSHAP and SHAP compounds emitted from the neutralization unit, kg/hr;

QMG_c = mass flow rate of total PSHAP and SHAP compounds emitted from the clarifier, kg/hr

F_{bio} = site-specific fraction of PSHAP and SHAP compounds biodegraded in the biological treatment unit.

(i) Include all PSHAP and SHAP compounds in both Group 1 and Group 2 wastewater streams from all MCPU, except you may exclude any compounds that meet the criteria specified in § 63.145(a)(6)(ii) or (iii).

(ii) Conduct the demonstration under representative process unit and treatment unit operating conditions in accordance with § 63.145(a)(3) and (4).

(iii) Determine PSHAP and SHAP concentrations and the total wastewater flow rate at the inlet to the equalization unit in accordance with § 63.145(f)(1) and (2). References in § 63.145(f)(1) and (2) to required mass removal and actual mass removal do not apply for the purposes of this section.

(iv) Determine F_{bio} for the activated sludge unit as specified in § 63.145(h), except as specified in paragraph (n)(2)(iv)(A) or paragraph (n)(2)(iv)(B) of this section.

(A) If the biological treatment process meets both of the requirements specified in § 63.145(h)(1)(i) and (ii), you may elect to replace the F_{bio} term in Equation 1 of this section with the numeral "1."

(B) You may elect to assume f_{bio} is zero for any compounds on List 2 of Table 36 in subpart G.

(v) Determine QMG_e, QMG_n, and QMG_c using EPA's WATER9 model or the most recent update to this model, and conduct testing or use other procedures to validate the modeling results.

(vi) Submit the data and results of your demonstration, including both a description of and the results of your WATER9 modeling validation procedures, in your notification of compliance status report as specified in § 63.2520(d)(2)(ii).

(3) As an alternative to the venting requirements in § 63.136(e)(2)(ii)(A), a lift station with a volume larger than 10,000 gal may have openings necessary for proper venting of the lift station. The size and other design characteristics of these openings may be established based on manufacturer recommendations or engineering judgment for venting under normal operating conditions. You must describe the design of such openings and your supporting calculations and other rationale in your notification of compliance status report.

(4) For any wastewater streams that are Group 1 for both PSHAP and SHAP, you may elect to meet the requirements specified in Table 7 to this subpart for the PSHAP and then comply with paragraphs (n)(1) through (3) of this section for the SHAP in the wastewater system. You may determine the SHAP mass removal rate, in kg/hr, in treatment units that are used to meet the requirements for PSHAP and add this amount to both the numerator and denominator in Equation 1 of this section.

(o) *Compliance records.* For each CPMS used to monitor a nonflare control device for wastewater emissions, you must keep records as specified in § 63.998(c)(1) in addition to the records required in § 63.147(d).

■ 11. Section 63.2495 is amended by revising paragraph (b)(1) to read as follows:

§ 63.2495 How do I comply with the pollution prevention standard?

* * * * *

(b) * * *

(1) You must comply with the emission limitations and work practice standards contained in Tables 1 through 7 of this subpart for all HAP that are generated in the MCPU and that are not included in consumption, as defined in § 63.2550. If any vent stream routed to the combustion control is a halogenated vent stream, as defined in § 63.2550, then hydrogen halides that are generated as a result of combustion control must be controlled according to the requirements of § 63.994 and the requirements referenced therein.

* * * * *

■ 12. Section 63.2520 is amended by:
■ a. Revising paragraph (c)(4);
■ b. Revising paragraph (d)(2)(i) and (d)(2)(ix);
■ c. Revising paragraphs (e)(5) introductory text, (e)(5)(ii)(C), and (e)(5)(iii)(K) and adding new paragraph (e)(5)(iv);
■ d. Revising paragraph (e)(9); and
■ e. Revising the first two sentences of paragraph (e)(10)(i) and paragraph (e)(10)(ii)(C) to read as follows:

§ 63.2520 What reports must I submit and when?

* * * * *

(c) * * *

(4) Data and rationale used to support an engineering assessment to calculate uncontrolled emissions in accordance with § 63.1257(d)(2)(ii). This requirement does not apply to

calculations of hydrogen halide and halogen HAP emissions as specified in § 63.2465(b), to determinations that the total HAP concentration is less than 50 ppmv, or if you use previous test data to establish the uncontrolled emissions.

* * * * *

(d) * * *

(2) * * *

(i) The results of any applicability determinations, emission calculations, or analyses used to identify and quantify HAP usage or HAP emissions from the affected source.

* * * * *

(ix) Records as specified in § 63.2535(l)(1) through (3) of process units used to create a PUG and calculations of the initial primary product of the PUG.

(e) * * *

(5) The compliance report must contain the information on deviations, as defined in § 63.2550, according to paragraphs (e)(5)(i), (ii), (iii), and (iv) of this section.

* * * * *

(ii) * * *

(C) Operating logs of processes with batch vents from batch operations for the day(s) during which the deviation occurred, except operating logs are not required for deviations of the work practice standards for equipment leaks.

(iii) * * *

(K) Operating logs of processes with batch vents from batch operations for each day(s) during which the deviation occurred.

* * * * *

(iv) If you documented in your notification of compliance status report that an MCPU has Group 2 batch process vents because the non-reactive HAP is the only HAP and usage is less than 10,000 lb/yr, the total uncontrolled organic HAP emissions from the batch process vents in an MCPU will be less than 1,000 lb/yr for the anticipated number of standard batches, or total uncontrolled hydrogen halide and halogen HAP emissions from all batch process vents and continuous process vents in a process are less than 1,000 lb/yr, include the records associated with each calculation required by § 63.2525(e) that exceeds an applicable HAP usage or emissions threshold.

* * * * *

(9) Applicable records and information for periodic reports as specified in referenced subparts F, G, H, SS, UU, WW, and GGG of this part and subpart F of 40 CFR part 65.

(10) * * *

(i) Except as specified in paragraph (e)(10)(ii) of this section, whenever you make a process change, or change any of the information submitted in the notification of compliance status report or a previous compliance report, that is not within the scope of an existing operating scenario, you must document the change in your compliance report. A process change does not include moving within a range of conditions identified in the standard batch, and a nonstandard batch does not constitute a process change. * * *

* * * * *

(ii) * * *

(C) A change from Group 2 to Group 1 for any emission point except for batch process vents that meet the conditions specified in § 63.2460(b)(6)(i).

■ 13. Section 63.2525 is amended by revising paragraphs (a), (c), and (e) to read as follows:

§ 63.2525 What records must I keep?

* * * * *

(a) Each applicable record required by subpart A of this part 63 and in referenced subparts F, G, SS, UU, WW, and GGG of this part 63 and in referenced subpart F of 40 CFR part 65.

* * * * *

(c) A schedule or log of operating scenarios for processes with batch vents from batch operations updated each time a different operating scenario is put into effect.

* * * * *

(e) The information specified in paragraph (e)(2), (3), or (4) of this section, as applicable, for each process with Group 2 batch process vents or uncontrolled hydrogen halide and halogen HAP emissions from the sum of all batch and continuous process vents less than 1,000 lb/yr. No records are required for situations described in paragraph (e)(1) of this section.

(1) No records are required if you documented in your notification of compliance status report that the MCPU meets any of the situations described in paragraph (e)(1)(i), (ii), or (iii) of this section.

(i) The MCPU does not process, use, or generate HAP.

(ii) You control the Group 2 batch process vents using a flare that meets the requirements of § 63.987.

(iii) You control the Group 2 batch process vents using a control device for which your determination of worst case for initial compliance includes the contribution of all Group 2 batch process vents.

(2) If you documented in your notification of compliance status report that an MCPU has Group 2 batch process vents because the non-reactive organic HAP is the only HAP and usage is less than 10,000 lb/yr, as specified in § 63.2460(b)(7), you must keep records of the amount of HAP material used, and calculate the daily rolling annual sum of the amount used no less frequently than monthly. If a record indicates usage exceeds 10,000 lb/yr, you must estimate emissions for the preceding 12 months based on the number of batches operated and the estimated emissions for a standard batch, and you must begin recordkeeping as specified in paragraph (e)(4) of this section. After 1 year, you may revert to recording only usage if the usage during the year is less than 10,000 lb.

(3) If you documented in your notification of compliance status report that total uncontrolled organic HAP emissions from the batch process vents in an MCPU will be less than 1,000 lb/yr for the anticipated number of standard batches, then you must keep records of the number of batches operated and calculate a daily rolling annual sum of batches operated no less frequently than monthly. If the number of batches operated results in organic HAP emissions that exceed 1,000 lb/yr, you must estimate emissions for the preceding 12 months based on the number of batches operated and the estimated emissions for a standard batch, and you must begin recordkeeping as specified in paragraph (e)(4) of this section. After 1 year, you may revert to recording only the number of batches if the number of batches operated during the year results in less than 1,000 lb of organic HAP emissions.

(4) If you meet none of the conditions specified in paragraphs (e)(1) through (3) of this section, you must keep records of the information specified in paragraphs (e)(4)(i) through (iv) of this section.

(i) A record of the day each batch was completed and/or the operating hours per day for continuous operations with hydrogen halide and halogen emissions.

(ii) A record of whether each batch operated was considered a standard batch.

(iii) The estimated uncontrolled and controlled emissions for each batch that is considered to be a nonstandard batch.

(iv) Records of the daily 365-day rolling summations of emissions, or alternative records that correlate to the emissions (e.g., number of batches), calculated no less frequently than monthly.

* * * * *

■ 14. Section 63.2535 is amended by revising paragraphs (a) and (k) to read as follows:

§ 63.2535 What compliance options do I have if part of my plant is subject to both this subpart and another subpart?

* * * * *

(a) *Compliance with other subparts of this part 63.* (1) If you have an MCPU that includes a batch process vent that also is part of a CMPU as defined in subparts F and G of this part 63, you must comply with the emission limits; operating limits; work practice standards; and the compliance, monitoring, reporting, and recordkeeping requirements for batch process vents in this subpart, and you must continue to comply with the requirements in subparts F, G, and H of this part 63 that are applicable to the CMPU and associated equipment.

(2) After the compliance dates specified in § 63.2445, at an offsite reloading or cleaning facility subject to § 63.1253(f), as referenced from § 63.2470(e), compliance with the monitoring, recordkeeping, and reporting provisions of any other subpart of this part 63 constitutes compliance with the monitoring, recordkeeping, and reporting provisions of § 63.1253(f)(7)(ii) or § 63.1253(f)(7)(iii). You must identify in your notification of compliance status report required by § 63.2520(d) the subpart of this part 63 with which the owner or operator of the offsite reloading or cleaning facility complies.

* * * * *

(k) *Compliance with 40 CFR part 60, subpart VV, and 40 CFR part 61, subpart V.* After the compliance date specified in § 63.2445, if you have an affected source with equipment that is also subject to the requirements of 40 CFR part 60, subpart VV, or 40 CFR part 61, subpart V, you may elect to apply this subpart to all such equipment. After the compliance date specified in § 63.2445, if you have an affected source with equipment to which this subpart does not apply, but which is subject to the requirements of 40 CFR part 60, subpart VV, or 40 CFR part 61, subpart V, you may elect to apply this subpart to all such equipment. If you elect either of these methods of compliance, you must consider all total organic compounds, minus methane and ethane, in such equipment for purposes of compliance with this subpart, as if they were organic HAP. Compliance with the provisions of this subpart, in the manner described in this paragraph (k), will constitute compliance with 40 CFR part 60, subpart VV and 40 CFR part 61, subpart V, as applicable.

* * * * *

■ 15. Section 63.2550 is amended by:
■ a. Revising paragraph (b);
■ b. Revising the last sentence in paragraph (i) introductory text;
■ c. Revising paragraph (8) in the definition of the term "batch process vent" in paragraph (i);
■ d. Adding new paragraphs (6) and (7) to the definition of the term "continuous process vent" in paragraph (i);
■ e. Revising the definition of the term "Group 1 continuous process vent" in paragraph (i);
■ f. Revising the definition of the term "isolated intermediate" in paragraph (i);
■ g. Adding new paragraph (6) to the definition of the term "miscellaneous organic chemical manufacturing process" in paragraph (i);
■ h. Revising the definition of the term "recovery device" in paragraph (i);
■ i. Revising the definition of the term "surge control vessel" in paragraph (i);
■ j. Revising the introductory text of the definition of the term "wastewater" in paragraph (i); and
■ k. Adding, in alphabetical order, new definitions for the terms "biofilter," "continuous operation," "emission point," "halogen atoms," "HAP metals," "point of determination," and "process condenser" in paragraph (i) to read as follows:

§ 63.2550 What definitions apply to this subpart?

* * * * *

(b) For an affected source complying with the requirements in 40 CFR part 65, subpart F, the terms used in this subpart and in 40 CFR part 65, subpart F have the meaning given to them in § 65.2.

* * * * *

(i) * * * If a term is defined in § 63.2, § 63.101, § 63.111, § 63.981, § 63.1020, § 63.1061, § 63.1251, or § 65.2 and in this paragraph (i), the definition in this paragraph (i) applies for the purposes of this subpart.

* * * * *

Batch process vent * * *

(8) Emission streams from emission episodes that are undiluted and uncontrolled containing less than 50 ppmv HAP are not part of any batch process vent. A vent from a unit operation, or a vent from multiple unit operations that are manifolded together, from which total uncontrolled HAP emissions are less than 200 lb/yr is not a batch process vent; emissions for all emission episodes associated with the unit operation(s) must be included in the determination of the total mass emitted. The HAP concentration or mass emission rate may be determined using any of the following: process knowledge that no HAP are present in the emission stream; an engineering assessment as discussed in § 63.1257(d)(2)(ii), except that you do not need to demonstrate that the equations in § 63.1257(d)(2)(i) do not apply, and the precompliance reporting requirements specified in § 63.1257(d)(2)(ii)(E) do not apply for the purposes of this demonstration; equations specified in § 63.1257(d)(2)(i), as applicable; test data using Method 18 of 40 CFR part 60, appendix A; or any other test method that has been validated according to the procedures in Method 301 of appendix A of this part.

* * * * *

Biofilter means an enclosed control system such as a tank or series of tanks with a fixed roof that contact emissions with a solid media (such as bark) and use microbiological activity to transform organic pollutants in a process vent stream to innocuous compounds such as carbon dioxide, water, and inorganic salts. Wastewater treatment processes such as aeration lagoons or activated sludge systems are not considered to be biofilters.

* * * * *

Continuous operation means any operation that is not a batch operation.

Continuous process vent * * *

(6) The references to an "air oxidation reactor, distillation unit, or reactor" in § 63.107 mean any continuous operation for the purposes of this subpart.

(7) A separate determination is required for the emissions from each MCPU, even if emission streams from two or more MCPU are combined prior to discharge to the atmosphere or to a control device.

* * * * *

Emission point means each continuous process vent, batch process vent, storage tank, transfer rack, and wastewater stream.

* * * * *

Group 1 continuous process vent means a continuous process vent for which the flow rate is greater than or equal to 0.005 standard cubic meter per minute, and the total resource effectiveness index value, calculated according to § 63.2455(b), is less than or equal to 1.9 at an existing source and less than or equal to 5.0 at a new source.

* * * * *

Halogen atoms mean chlorine and fluorine.

HAP metals means the metal portion of antimony compounds, arsenic compounds, beryllium compounds, cadmium compounds, chromium compounds, cobalt compounds, lead compounds, manganese compounds, mercury compounds, nickel compounds, and selenium compounds.

* * * * *

Isolated intermediate means a product of a process that is stored before subsequent processing. An isolated intermediate is usually a product of a chemical synthesis, fermentation, or biological extraction process. Storage of an isolated intermediate marks the end of a process. Storage occurs at any time the intermediate is placed in equipment used solely for storage. The storage equipment is part of the MCPU that produces the isolated intermediate and is not assigned as specified in § 63.2435(d).

Miscellaneous organic chemical manufacturing process * * *

(6) The end of a process that produces a solid material is either up to and including the dryer or extruder, or for a polymer production process without a dryer or extruder, it is up to and including the extruder, die plate, or solid-state reactor, except in two cases. If the dryer, extruder, die plate, or solid-state reactor is followed by an operation that is designed and operated to remove HAP solvent or residual HAP monomer from the solid, then the solvent removal operation is the last step in the process. If the dried solid is diluted or mixed with a HAP-based solvent, then the solvent removal operation is the last step in the process.

* * * * *

Point of determination means each point where process wastewater exits the MCPU or control device.

Note to definition for point of determination: The regulation allows determination of the characteristics of a wastewater stream: At the point of determination: or downstream of the point of determination if corrections are made for changes in flow rate and annual average concentration of soluble HAP and partially soluble HAP compounds as determined according to procedures in § 63.144 of subpart G in this part 63. Such changes include losses by air emissions; reduction of annual average concentration or changes in flow rate by mixing with other water or wastewater streams; and reduction in flow rate or annual average concentration by treating or otherwise handling the wastewater stream to remove or destroy HAP.

* * * * *

Process condenser means a condenser whose primary purpose is to recover material as an integral part of an MCPU. All condensers recovering condensate from an MCPU at or above the boiling point or all condensers in line prior to a vacuum source are considered process condensers. Typically, a primary condenser or condensers in series are considered to be integral to the MCPU if they are capable of and normally used for the purpose of recovering chemicals for fuel value (i.e., net positive heating value), use, reuse or for sale for fuel value, use, or reuse. This definition does not apply to a condenser that is used to remove materials that would hinder performance of a downstream recovery device as follows:

(1) To remove water vapor that would cause icing in a downstream condenser, or

(2) To remove water vapor that would negatively affect the adsorption capacity of carbon in a downstream carbon adsorber, or

(3) To remove high molecular weight organic compounds or other organic compounds that would be difficult to remove during regeneration of a downstream carbon adsorber.

* * * * *

Recovery device means an individual unit of equipment used for the purpose of recovering chemicals from process vent streams and from wastewater streams for fuel value (i.e., net positive heating value), use, reuse, or for sale for fuel value, use, or reuse. For the purposes of meeting requirements in Table 2 to this subpart, the recovery device must not be a process condenser and must recover chemicals to be reused in a process on site. Examples of equipment that may be recovery devices include absorbers, carbon adsorbers, condensers, oil-water separators or organic-water separators, or organic removal devices such as decanters, strippers, or thin-film evaporation units. To be a recovery device for a wastewater stream, a decanter and any other equipment based on the operating principle of gravity separation must receive only multi-phase liquid streams.

* * * * *

Surge control vessel means feed drums, recycle drums, and intermediate vessels as part of any continuous operation. Surge control vessels are used within an MCPU when in-process storage, mixing, or management of flowrates or volumes is needed to introduce material into continuous operations.

* * * * *

Wastewater means water that is discarded from an MCPU or control device through a POD and that contains either: an annual average concentration of compounds in Tables 8 and 9 to this subpart of at least 5 ppmw and has an annual average flowrate of 0.02 liters per minute or greater; or an annual average concentration of compounds in Tables 8 and 9 to this subpart of at least 10,000 ppmw at any flowrate. Wastewater means process wastewater or maintenance wastewater. The following are not considered wastewater for the purposes of this subpart:

* * * * *

■ 16. Table 2 to subpart FFFF of part 63 is amended by revising entry 1 to read as follows:

TABLE 2 TO SUBPART FFFF OF PART 63.—EMISSION LIMITS AND WORK PRACTICE STANDARDS FOR BATCH PROCESS VENTS

* * * * * * *

For each . . .	Then you must . . .	And you must . . .
1. Process with Group 1 batch process vents.	a. Reduce collective uncontrolled organic HAP emissions from the sum of all batch process vents within the process by ≥98 percent by weight by venting emissions from a sufficient number of the vents through one or more closed-vent systems to any combination of control devices (except a flare); or	Not applicable.
	b. Reduce collective uncontrolled organic HAP emissions from the sum of all batch process vents within the process by ≥95 percent by weight by venting emissions from a sufficient number of the vents through one or more closed-vent systems to any combination of recovery devices or a biofilter, except you may elect to comply with the requirements of subpart WW of this part for any process tank; or	Not applicable.

TABLE 2 TO SUBPART FFFF OF PART 63.—EMISSION LIMITS AND WORK PRACTICE STANDARDS FOR BATCH PROCESS VENTS—Continued

For each . . .	Then you must . . .	And you must . . .
	c. Reduce uncontrolled organic HAP emissions from one or more batch process vents within the process by venting through a closed-vent system to a flare or by venting through one or more closed-vent systems to any combination of control devices (excluding a flare) that reduce organic HAP to an outlet concentration ≤20 ppmv as TOC or total organic HAP.	For all other batch process vents within the process, reduce collective organic HAP emissions as specified in item 1.a and/or item 1.b of this table.

■ 17. Table 3 to subpart FFFF of part 63 is revised to read as follows:

TABLE 3 TO SUBPART FFFF OF PART 63.—EMISSION LIMITS FOR HYDROGEN HALIDE AND HALOGEN HAP EMISSIONS OR HAP METALS EMISSIONS FROM PROCESS VENTS

For each . . .	You must . . .
1. Process with uncontrolled hydrogen halide and halogen HAP emissions from process vents ≥1,000 lb/yr.	a. Reduce collective hydrogen halide and halogen HAP emissions by ≥99 percent by weight or to an outlet concentration ≤20 ppmv by venting through one or more closed-vent systems to any combination of control devices, or b. Reduce the halogen atom mass emission rate from the sum of all batch process vents and each individual continuous process vent to ≤0.45 kg/hr by venting through one or more closed-vent systems to a halogen reduction device.
2. Process at a new source with uncontrolled emissions from process vents ≥150 lb/yr of HAP metals.	Reduce overall emissions of HAP metals by ≥97 percent by weight.

■ 18. Table 4 to subpart FFFF of part 63 is amended by revising entry 1 to read as follows:

TABLE 4 TO SUBPART FFFF OF PART 63.—EMISSION LIMITS FOR STORAGE TANKS

For each . . .	For which . . .	Then you must . . .
1. Group 1 storage tank	a. The maximum true vapor pressure of total HAP at the storage temperature is ≥76.6 kilopascals.	i. Reduce total HAP emissions by ≥95 percent by weight or to ≤20 ppmv of TOC or organic HAP and ≤20 ppmv of hydrogen halide and halogen HAP by venting emissions through a closed vent system to any combination of control devices (excluding a flare); or ii. Reduce total organic HAP emissions by venting emissions through a closed vent system to a flare; or iii. Reduce total HAP emissions by venting emissions to a fuel gas system or process in accordance with §63.982(d) and the requirements referenced therein.
	b. The maximum true vapor pressure of total HAP at the storage temperature is <76.6 kilopascals.	i. Comply with the requirements of subpart WW of this part, except as specified in §63.2470; or

TABLE 4 TO SUBPART FFFF OF PART 63.—EMISSION LIMITS FOR STORAGE TANKS—Continued

For each . . .	For which . . .	Then you must . . .
		ii. Reduce total HAP emissions by ≥95 percent by weight or to ≤20 ppmv of TOC or organic HAP and ≤20 ppmv of hydrogen halide and halogen HAP by venting emissions through a closed vent system to any combination of control devices (excluding a flare); or iii. Reduce total organic HAP emissions by venting emissions through a closed vent system to a flare; or iv. Reduce total HAP emissions by venting emissions to a fuel gas system or process in accordance with §63.982(d) and the requirements referenced therein.

■ 19. Table 5 to subpart FFFF of part 63 is amended by revising entry 1 to read as follows:

TABLE 5 TO SUBPART FFFF OF PART 63.—EMISSION LIMITS AND WORK PRACTICE STANDARDS FOR TRANSFER RACKS

For each . . .	You must . . .
1. Group 1 transfer rack	a. Reduce emissions of total organic HAP by ≥98 percent by weight or to an outlet concentration ≤20 ppmv as organic HAP or TOC by venting emissions through a closed-vent system to any combination of control devices (except a flare); or b. Reduce emissions of total organic HAP by venting emissions through a closed-vent system to a flare; or c. Reduce emissions of total organic HAP by venting emissions to a fuel gas system or process in accordance with §63.982(d) and the requirements referenced therein; or d. Use a vapor balancing system designed and operated to collect organic HAP vapors displaced from tank trucks and railcars during loading and route the collected HAP vapors to the storage tank from which the liquid being loaded originated or to another storage tank connected by a common header.

■ 20. Table 6 to subpart FFFF of part 63 is amended by revising entry 1 to read as follows:

TABLE 6 TO SUBPART FFFF OF PART 63.—REQUIREMENTS FOR EQUIPMENT LEAKS

For all . . .	You must . . .
1. Equipment that is in organic HAP service.	a. Comply with the requirements of subpart UU of this part 63 and the requirements referenced therein, except as specified in §63.2480(b) and (d); or b. Comply with the requirements of subpart H of this part 63 and the requirements referenced therein, except as specified in §63.2480(b) and (d); or c. Comply with the requirements of 40 CFR part 65, subpart F and the requirements referenced therein, except as specified in §63.2480(c) and (d).

■ 21. Table 8 to subpart FFFF of part 63 is amended by removing entry 10 and redesignating entries 11 through 61 as entries 10 through 60.

■ 22. Table 12 to subpart FFFF of part 63 is amended as follows:

■ a. Removing the entries for §§ 63.8(c)(4)(i)–(ii) and 63.10(e)(1)–(2);

■ b. Adding new entries for §§ 63.8(c)(4)(i), 63.8(c)(4)(ii), 63.10(e)(1), 63.10(e)(2)(i), and 63.10(e)(2)(ii); and

■ c. Revising the entries for §§ 63.8(c)(4), 63.8(c)(6), 63.8(c)(7)–(8), 63.8(d), 63.8(e), 63.9(g), 63.10(b)(2)(xiii), and 63.10(c)(1)–(6), (9)–(15).

TABLE 12 TO SUBPART FFFF OF PART 63.—APPLICABILITY OF GENERAL PROVISIONS TO SUBPART FFFF

* * * * * * *

Citation	Subject	Explanation
* * * * * * *		
§63.8(c)(4)	CMS Requirements	Only for CEMS. Requirements for CPMS are specified in referenced subparts G and SS of part 63. Requirements for COMS do not apply because subpart FFFF does not require continuous opacity monitoring systems (COMS).
§63.8(c)(4)(i)	COMS Measurement and Recording Frequency.	No; subpart FFFF does not require COMS.
§63.8(c)(4)(ii)	CEMS Measurement and Recording Frequency.	Yes.
* * * * * * *		
§63.8(c)(6)	CMS Requirements	Only for CEMS; requirements for CPMS are specified in referenced subparts G and SS of this part 63. Requirements for COMS do not apply because subpart FFFF does not require COMS.
§63.8(c)(7)–(8)	CMS Requirements	Only for CEMS. Requirements for CPMS are specified in referenced subparts G and SS of part 63. Requirements for COMS do not apply because subpart FFFF does not require COMS.
§63.8(d)	CMS Quality Control	Only for CEMS.
§63.8(e)	CMS Performance Evaluation	Only for CEMS. Section 63.8(e)(5)(ii) does not apply because subpart FFFF does not require COMS.
* * * * * * *		
§63.9(g)	Additional Notifications When Using CMS.	Only for CEMS. Section 63.9(g)(2) does not apply because subpart FFFF does not require COMS.
* * * * * * *		
§63.10(b)(2)(xiii)	Records	Only for CEMS.
* * * * * * *		
§63.10(c)(1)–(6),(9)–(15)	Records	Only for CEMS. Recordkeeping requirements for CPMS are specified in referenced subparts G and SS of this part 63.
* * * * * * *		
§63.10(e)(1)	Additional CEMS Reports	Yes.
§63.10(e)(2)(i)	Additional CMS Reports	Only for CEMS.
§63.10(e)(2)(ii)	Additional COMS Reports	No. Subpart FFFF does not require COMS.
* * * * * * *		

[FR Doc. 06–5970 Filed 7–13–06; 8:45 am]
BILLING CODE 6560–50–P

Federal Register

Friday,
July 14, 2006

Part VI

Department of Commerce

National Oceanic and Atmospheric Administration

Science Advisory Board; Meeting; Notice

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

Science Advisory Board; Meeting

AGENCY: Office of Oceanic and Atmospheric Research (OAR), National Oceanic and Atmospheric Administration (NOAA), Department of Commerce (DOC).

ACTION: Notice of Open Meeting.

SUMMARY: The Science Advisory Board (SAB) was established by a Decision Memorandum dated September 25, 1997, and is the only Federal Advisory Committee with responsibility to advise the Under Secretary of Commerce for Oceans and Atmosphere on strategies for research, education, and application of science to operations and information services. SAB activities and advice provide necessary input to ensure that National Oceanic and Atmospheric Administration (NOAA) science programs are of the highest quality and provide optimal support to resource management.

TIME AND DATE: The meeting will be held Tuesday July 25, 2006, from 1 p.m. to 5:20 p.m. and Wednesday July 26, 2006, from 9:00 a.m. to 4:30 p.m. These times and the agenda topics described below are subject to change. Please refer to the web page <*http://www.sab.noaa.gov/Meetings/meetings.html*> for the most up-to-date meeting agenda.

PLACE: The meeting will be held both days at the Best Western Beach Resort Monterey, 2600 Sand Dunes Drive, Monterey, California 93940.

STATUS: he meeting will be open to public participation with a 30-minute public comment period on July 26 (check website to confirm time). The SAB expects that public statements presented at its meetings will not be repetitive of previously submitted verbal or written statements. In general, each individual or group making a verbal presentation will be limited to a total time of five (5) minutes. Written comments (at least 35 copies) should be received in the SAB Executive Director's Office by July 17, 2006 to provide sufficient time for SAB review. Written comments received by the SAB Executive Director after July 17 will be distributed to the SAB, but may not be reviewed prior to the meeting date. Seats will be available on a first-come, first-served basis.

MATTERS TO BE CONSIDERED: The meeting will include the following topics: (1) Discussion of the Final Report of the External Review of NOAA's Ecosystem Research and Science Enterprise; (2) Discussion of the Final Report of the Physical and Social Sciences Research Task Team (3) Discussion of the Final Report of the Hurricane Intensity Research Working Group; (4) Report on Building the Scientific Foundation for an Effective Regional System of Marine Protected Areas (MPAs) with a focus on NOAA's West Coast Pilot Project; (5) Update on the Integrated Ocean Observing System (IOOS) addressing its Status and NOAA's Contributions; (6) Discussion of the Pacific Coast Ocean Observing System (PaCOOS) as a Regional Ecosystem Coordinating Group and (7) Approval of the NOAA Cooperative Institute Review of the Cooperative Institute for Climate Science (CICS).

FOR FURTHER INFORMATION CONTACT: Dr. Cynthia Decker, Executive Director, Science Advisory Board, NOAA, Rm. 11117, 1315 East-West Highway, Silver Spring, Maryland 20910. (Phone: 301–713–9121, Fax: 301–713–3515, E-mail: *Cynthia.Decker@noaa.gov*); or visit the NOAA SAB website at *http://www.sab.noaa.gov.*

Dated: July 7, 2006.

Richard W. Spinrad,

Assistant Administrator, Office of Oceanic and Atmospheric Research, National Oceanic and Atmospheric Administration.

[FR Doc. 06–6197 Filed 7–13–06; 8:45 am]

BILLING CODE 3510–KD–P

Federal Register

Friday,
July 14, 2006

Part VII

Department of Health and Human Services

Administration for Children and Families

45 CFR Part 1356
Chafee National Youth in Transition Database; Proposed Rule

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

45 CFR Part 1356

RIN 0970–AC21

Chafee National Youth in Transition Database

AGENCY: Administration on Children, Youth and Families (ACYF), Administration for Children and Families (ACF), Department of Health and Human Services (DHHS).

ACTION: Notice of proposed rulemaking.

SUMMARY: The Administration for Children and Families (ACF) is proposing to add regulations at 45 CFR part 1356 to require States to collect and report data to ACF on youth who are receiving independent living services and the outcomes of certain youth who are in foster care or who age out of foster care. This proposed rule implements the data collection requirements of the Foster Care Independence Act of 1999 (Public Law 106–169) as incorporated into the Social Security Act at section 477.

DATES: In order to be considered, we must receive written comments on this notice of proposed rulemaking on or before September 12, 2006.

ADDRESSES: Interested persons are invited to submit comments regarding this proposed rule to Kathleen McHugh, Director, Division of Policy, Children's Bureau, Administration on Children, Youth and Families, Administration for Children and Families, 1250 Maryland Avenue, SW., 8th Floor, Washington, DC 20024. You may also transmit comments via e-mail to *CBcomments@acf.hhs.gov* or electronically via the Internet at *http://www.regulations.acf.hhs.gov*. We urge you to submit comments electronically to ensure that we receive them in a timely manner. To download an electronic version of the rule, you should access *http://www.regulations.gov/*. Comments will be available for public inspection Monday through Friday 8:30 a.m. to 5:00 p.m. at the above address by contacting Miranda Lynch at (202) 205–8138.

Comments that concern information collection requirements must be sent to the Office of Management and Budget at the address listed in the Paperwork Reduction Act section of this preamble. A copy of these comments also may be sent to the Department representative listed above.

FOR FURTHER INFORMATION CONTACT: Kathleen McHugh, Director of Policy, Children's Bureau, Administration on Children, Youth and Families, 202/401–5789 or by e-mail at *kmchugh@acf.hhs.gov*. Do not e-mail comments on the Notice of Proposed Rulemaking to this address.

SUPPLEMENTARY INFORMATION: The preamble to this notice of proposed rulemaking is organized as follows:

I. Background

A. Chafee Foster Care Independence Program Legislative History

Each year thousands of young people are discharged from State foster care systems because they reach the age at which they are no longer eligible for out-of-home placement services. During the early 1980s, research and anecdotal evidence indicated that many young people who emancipated from foster care experienced numerous difficulties in their attempts to achieve self-sufficiency. Rather than making a successful transition to living on their own, a significant percentage of these youth experienced homelessness, unemployment, victimization, and dependence on various types of public assistance.

In response to this problem, President Reagan signed into law the Title IV–E Independent Living Initiative (Public Law 99–272) in 1986. The law provided States with funding to make available independent living services to youth in foster care between the ages of 16 and 21. Although Public Law 99–272 increased the availability of independent living services for some youth in foster care, many child welfare researchers, practitioners, youth advocates, and policy makers at the Federal and State levels believed that more was necessary for youth to make a successful transition from foster care to self-sufficiency. To address these concerns, President Clinton signed the Foster Care Independence Act of 1999 (Pub. L. 106–169) into law on December 14, 1999, which established the John H. Chafee Foster Care Independence Program (CFCIP) at section 477 of the Social Security Act (the Act). Compared to Public Law 99–272, the Foster Care Independence Act provides States with greater funding and flexibility to carry out programs to assist youth in making the transition from foster care to self-sufficiency. The legislation provides States with funding to identify and provide independent living services to youth who are likely to remain in foster care until at least age 18—thus removing the minimum age requirements for the receipt of independent living services. Public Law 106–169 also requires States to provide assistance and services to youth who age out of foster care, until age 21, and allows States to use part of their funding to provide room and board assistance to these youth.

President Bush later signed the Promoting Safe and Stable Families Amendments of 2001 (Pub. L. 107–133) into law on January 17, 2002, which provides States with funding specifically for education and training vouchers for youth who are eligible for CFCIP services. Although the budget for the education and training vouchers is authorized and appropriated separately from the general CFCIP grants for independent living services, the education and training vouchers are integrated into the overall CFCIP program under section 477 of the Act.

B. Statutory Requirement for a Data Collection System

The Foster Care Independence Act of 1999 requires ACF to develop a data collection system, in consultation with various stakeholders, to perform two functions: (1) track the independent living services States provide to youth; and, (2) develop outcome measures that may be used to assess State performance in operating their independent living programs. With regard to services, the Act requires us to identify data elements to track the number and characteristics of children receiving services under section 477 of the Act and the type and quantity of services States provide. With regard to outcomes, section 477(f)(1) of the Act requires that we develop outcome measures, including measures of educational attainment, receipt of a high school diploma, employment, avoidance of dependency, homelessness, non-marital childbirth,

incarceration, and high-risk behaviors, and the data elements to track States' performance on the outcome measures.

The law also requires that ACF impose a penalty of between one and five percent of the State's annual allotment on any State that fails to comply with the reporting requirements. ACF must base a State's penalty amount on the degree of noncompliance (section 477(e)(2) and (3) of the Act).

II. Consultation Process

To meet the statutory mandate, we consulted with a variety of stakeholders over several years and gathered useful information, helped frame this proposed rule for a data system which we are calling the National Youth in Transition Database (NYTD). ACF's consultation on the proposed NYTD had the following objectives: (1) To identify a range or variety of outcomes that demonstrate that youth are making a successful transition from foster care to living on their own; (2) to identify youth characteristics and the independent living services provided to youth; and (3) to identify data reporting methods and procedures. In addition, we invited several States to conduct a pilot test of draft data definitions and collection procedures suggested by the consultation groups.

A. Development of Outcomes

The outcomes consultation process included national discussion groups on generally expected outcomes for youth leaving foster care and involved such participants as child welfare agency administrators and independent living coordinators at the State, Tribal, and local levels; public and private agency youth service providers; technical assistance providers; child welfare advocates; group home staff and administrators; and current and former foster youth and foster parents. The discussion groups took place in a variety of venues, mostly led by ACF, our contractors and resource centers, as well as the National Association of Public Child Welfare Administrators. We also sought information from a variety of stakeholders on specific outcomes and measures that could become a part of the NYTD.

B. Identification of Youth Characteristics and Services

Independent of our outcomes consultation, we consulted widely to identify the characteristics of youth necessary to provide a clear picture of who is receiving independent living services from States, and the type and quantity of services they receive. We held conference calls with independent living coordinators and information technology managers from several States to determine the types of data related to independent living services and characteristics of youth that States currently collect. We also requested information on what data State staff considered necessary to describe accurately the youth served and the services received, and the data that could most easily be obtained or reported by States.

In addition, we formed a data work group to analyze the results of a pilot test of the draft proposed data elements. The data work group consisted of child welfare directors, independent living coordinators, and information systems managers from seven States and one Tribe. Representatives of the American Public Human Services Association (APHSA) and three of the Children's Bureau's National Resource Centers for child welfare also participated in this data work group.

The pilot test, which was conducted in August 2001, served as a field test of the draft data elements, definitions, and procedures and provided valuable information for assessment of the data collection burden on the States. In each of the seven pilot States, caseworkers collected data about several older youth, identified any unclear definitions, and described any difficulties encountered while collecting data. Each pilot State also was asked to report the amount of effort required to collect the information. We used these responses to assess the burden for workers, and to learn if the capacity to report data varied significantly across agencies or States.

C. Data Reporting Methods and Procedures

As a final step we consulted with various stakeholders on how to develop reporting methods and procedures for the proposed NYTD. We interviewed more than 25 system developers, managers, and users of the Adoption and Foster Care Analysis and Reporting System (AFCARS), the National Child Abuse and Neglect Data System (NCANDS), and the Runaway and Homeless Youth Management Information System (RHYMIS). This consultation focused on the reporting population, and how and when data should be collected at the State level and reported to ACF. These comments were important considerations in our proposals for reporting population, reporting frequency, and data content.

D. Comments on Alternative or Future Approaches

As with all proposed rules, we are seeking to extend our consultation by requesting specific comments on what is proposed herein. However, throughout the preamble we have indicated some areas where we are interested in receiving comments on approaches that we have not proposed officially. We want to highlight those areas here to ensure that we receive sufficient comment on these issues:

- Conducting outcome data collection activities on young people ages 17, 19 and 21 years old (sections 1356.82 and 1356.83)
- Exploring how States can use Extensible Mark-Up Language (XML) to transmit data files to the NYTD (section 1356.83(h));
- Providing States with incentives to meet file submission and data standards in the form of a prospective penalty reduction for meeting certain data standards;
- Increasing the data standards for the State to obtain outcome information on youth over time (section 1356.85(b)(3)); and,
- Using 'cross-file checks' as a factor of compliance in the NYTD (section 1356.85(c)).

III. Overview of the Proposed NYTD

A. Summary of the NYTD

Please refer to the end of the preamble for a Chart 2 on the proposed NYTD that accompanies this section.

As discussed in the section-by-section analysis later in the preamble, we are proposing that States report to NYTD four types of information about youth: their services, characteristics, outcomes, and basic demographics. In terms of services, we are proposing that States identify the type of independent living services or financial assistance that the State provides to youth. The State also will identify the characteristics of each youth receiving independent living services, such as their education level and tribal membership.

In terms of outcomes, we are proposing that States gather and report information on youth who are or were in foster care that we can use to measure the collective outcomes of these youth and potentially assess the State's performance in this area. In particular, we are proposing that States survey young people for outcomes information who are or were previously in foster care, regardless of the independent living services they are receiving or received. States will collect information on these youth at three specific intervals: on or about the youth's 17th

birthday while the youth is in foster care; two years later on or about the youth's 19th birthday; and again on or about the youth's 21st birthday. States must report on 19- and 21-year-olds who participated in data collection at age 17 while in foster care, even if they are no longer in the State's foster care system or receiving independent living services at ages 19 and 21. States will collect outcome information on a new cohort of youth (17-year-olds in foster care) every three years.

We are proposing that the State survey youth regarding six outcomes that came out of our consultation and are consistent with the law's mandate. Those six outcomes focus on the youth's financial self-sufficiency, experience with homelessness, educational attainment, positive connections with adults, high-risk behavior, and access to health insurance. States will gather information on young people such as: whether the youth is employed; whether the youth is receiving public and/or other types of assistance; a youth's educational achievement levels; whether a youth has been incarcerated; and a youth's marital and parenting status. We will not use the data to assess the progress of individual youth; rather, we propose to use the information to assess the collective outcomes of youth and potentially evaluate State performance with regard to those outcomes.

Finally, we also are proposing that States identify basic demographic information, such as sex and race of each youth in the reporting population.

States will report all four types of information (services, characteristics, outcomes, and basic demographics) to the NYTD semi-annually, on a Federal fiscal year basis. ACF will evaluate a State's data file against file submission and data compliance standards designed to ensure that we have quality data on our target reporting populations. States that fail to achieve any of the compliance standards for a reporting period will be given an opportunity to submit corrected data to us. If a State's corrected data does not comply with the data standards, the State will be subject to a penalty of between one and five percent of the State's annual CFCIP funding, depending on the level of noncompliance.

Implementation of NYTD will be dependent on the issuance of a final rule. We anticipate giving States approximately one year from the publication of the final rule before we will require them to collect and report data. States may use their CFCIP funds to develop and support any changes to their information systems to collect and report information to NYTD. States with a Statewide Automated Child Welfare Information System (SACWIS) may claim appropriate costs under title IV–E, if the changes to their SACWIS to meet NYTD requirements are consistent with an approved advanced planning document (APD) and cost allocation plan.

Finally, we would like to note that we are not proposing performance standards for States in this NPRM. Rather we are proposing outcome measures and the data elements that will track those outcomes. While we have not decided definitively to develop standards, we believe that we can only develop standards once States begin to report data to the NYTD, thus giving us a basis for establishing standards.

B. The NYTD as a Separate Data Collection and Reporting Activity

With this NPRM we are proposing a new Federal database of information on youth who are receiving independent living services and the outcomes of older youth who are in foster care and those that leave foster care. Although we considered the requests of some consultation participants to fold the data requirements for the CFCIP into one of ACF's existing child welfare national databases, we decided against doing so because: (1) The proposed NYTD reporting population is significantly different than the reporting populations of other databases; (2) we can link a youth's foster care experience with their independent living information between data systems without combining databases; (3) combining databases does not reduce the cost or burden on States or the Federal government; and (4) the different authorizing statutes and penalty structures do not lend themselves to combining the databases.

States currently send data to two central, child welfare databases that are maintained by the Children's Bureau: the National Child Abuse and Neglect Data System (NCANDS) and the Adoption and Foster Care Analysis and Reporting System (AFCARS). States report information voluntarily to NCANDS about reports of child abuse and neglect and the child protective services agency response to these allegations (see sections 103(c) and 106(d) of the Child Abuse Prevention and Treatment Act, as amended). A vast majority of children whom States report to NCANDS never enter foster care, or return home from foster care long before they are likely to age out of the foster care system. Because of the voluntary nature of NCANDS and the broader scope of the reporting population, we do not believe it is an appropriate mechanism to capture information on youth receiving independent living services or their outcomes.

States are required by law and regulation to submit data to AFCARS on all children in foster care or adopted with the involvement of the State child welfare agency (see section 479 of the Act and 45 CFR 1355.40). Nearly all youth who will receive independent living services are or once were in a State's foster care system (with the exception of some youth who may be served through an Indian tribe or privately operated foster care program), so the AFCARS population more closely tracks that of the proposed NYTD than does the NCANDS population. However, the population of older youth ages 19 and 21 on whom we are seeking independent living outcome information are not often reported in AFCARS, because States are required to report on only children in foster care who are typically youth under 18. Further, while States do provide ACF with information about these youths' foster care experiences and demographic information as part of their AFCARS submissions, AFCARS currently does not collect any information on independent living services or outcomes specific to these youth.

Despite the disparate reporting populations, we considered whether adding an independent living component to AFCARS would prove beneficial to States and ACF. One purported benefit of a combined submission is that States would combine information on a youth's foster care experience, services and outcomes into a single report. However, we can achieve this goal with the separate database we propose here. This is because we are proposing that States identify youth reported to NYTD in the same way they do for AFCARS, so that we can associate information between the two databases. We expect, therefore, to lay the groundwork for analysis of a broader picture of the experiences that youth have in and after leaving foster care.

Another potential benefit of a combined submission pointed out during consultation is that States would not have to repeat some of the basic demographic information for youth who are or were previously in their foster care system. Some believed that avoiding this kind of duplication would reduce the cost for States of this new data collection effort. However, although some of the proposed NYTD elements at first glance may appear to be identical to AFCARS elements, they are

in fact defined differently so that we can achieve the law's purpose of understanding a youth's services and independent living outcomes versus their foster care experience. Therefore, only three demographic elements (race, sex and date of birth) are duplicates. Since we understand that States store this demographic information in their information systems, the only duplicated effort is in the State compiling it into another report to ACF.

Moreover, combining the reporting files does not substantially lower the amount of effort a State will expend to change its practices to gather the information we are proposing they collect. For example, requiring the State to send an additional file with information specific to independent living to AFCARS will not decrease the State's burden in changing its information systems to collect services information, training and requiring caseworkers or service providers to record information on youth services, and implementing a strategy to collect outcome information from older youth. Similarly, we do not believe that combining the databases saves the Federal government any costs to store or analyze the data, or conduct technical assistance and oversight activities.

Finally, the authorizing statutes for AFCARS and the proposed NYTD are very different, requiring different approaches to compliance and penalties. Section 474(f) of the Act mandates that we penalize States a portion of their title IV–E administrative funds spent on foster care for not complying with AFCARS requirements, and requires us to continue to penalize a State for the period of the noncompliance. Section 477 of the Act requires us to penalize States that do not comply with the data collection effort in the amount of one and five percent of their annual Chafee funds, depending on the extent of noncompliance. Therefore, to meet these separate requirements and penalty schemes, AFCARS information would have to remain distinguishable from the independent living information to an extent that renders combining the two databases meaningless.

We believe that keeping the information collected separate from AFCARS will help us highlight the experiences of youth transitioning into independent living and will not disrupt State and Federal efforts to improve the quality of AFCARS data. Furthermore, many State managers of the Statewide Automated Child Welfare Information System, those individuals who would be tasked with developing a system that adheres to NYTD and AFCARS requirements in the State, preferred to send a separate data submission to ACF.

IV. Section-by-Section Discussion of NPRM

We propose to add new sections 1356.80 to 1356.86 as follows:

Section 1356.80 Scope of the National Youth in Transition Database

Under proposed section 1356.80, any State, the District of Columbia, or Territory that administers a Chafee Foster Care Independence Program (CFCIP) under section 477 of the Social Security Act must comply with the requirements for data collection and reporting as described in this proposed rule. Currently, all States, the District of Columbia and Puerto Rico operate CFCIP programs.

Section 1356.81 Reporting Population

The NYTD reporting population is comprised of three groups of youth: the served, baseline and follow-up populations. They are defined further below.

In paragraph (a), we identify the served population as those youth who have received any independent living services paid for or provided by the CFCIP agency during the reporting period. The CFCIP agency is the same agency as the title IV–B/IV–E agency in the State.

We have chosen to include in the served population youth who receive services that the CFCIP agency makes available, rather than just those that are paid for with CFCIP funds specifically. Also included in this definition are youth who may obtain an independent living service from a source other than the CFCIP agency directly, if that service was paid for by the CFCIP agency. For example, the served population includes tribal youth who receive services through a tribal child welfare agency under a contract or agreement with the State CFCIP agency to provide independent living services. We realize that this definition is more expansive than that suggested by the statute (see section 477(f)(1)(B) of the Act). However, we believe that capturing information about all independent living services offered by the State's CFCIP agency gives a more complete picture of how each State supports youth transitioning into independent living. Moreover, we learned through consultations that while States may keep track of independent living services that are provided by the agency, many do not have systems in place to track a service back to a particular Federal funding source.

We considered proposing that the served population include only those youth who are in the State's foster care system, or who have previously been in foster care, and are currently receiving independent living services from that same State. While most youth who receive independent living services from a State have been in foster care in that State, some have not. We originally believed that the advantage of including only youth who had been in the State's foster care system is that the State already would have a case record on these youth that included demographic and perhaps, service information. Upon further review, however, we grew concerned that we would exclude information about the independent living services of youth who were not in this limited population. In particular, this definition would not include an Indian tribal youth who was never in a State's foster care system, but who was receiving independent living services provided by the State's CFCIP agency through a contract or agreement with his or her Tribe. Since section 477(b)(3)(G) of the Act requires States to serve Indian children on the same basis as other youth in the State, we believe it is important to include them in the served population. Additionally, a limited definition of the served population would exclude youth who may move to another State after their tenure in foster care. Therefore, we kept the definition broad to better reflect the characteristics and number of youth receiving independent living services.

We also considered requiring States to collect and report services information on any youth who is currently in a State's foster care system, regardless of whether he or she receives independent living services. In other words, States would report information that told us which youth are receiving services and what those services are as well as which youth are not receiving any services. We considered this option originally because it would give us information about the characteristics of those youth who were in foster care but were not receiving independent living services. Ultimately, we rejected this approach because the statute's mandates regarding service information are that States provide the number and characteristics of children receiving services only (section 477(f)(1)(B)(i) of the Act). As we refined the definition of the served population, we came to believe that requiring States to report services information on each youth in foster care went well beyond the statutory requirements and would pose an unnecessary burden on States.

We also considered establishing a minimum age of 14 for the served population. This option was particularly applicable when we considered having a served population that included all youth currently in the State's foster care system, regardless of whether the youth received independent living services. Without a minimum age, this broad definition would have encompassed all youth who were in foster care, including very young children. Therefore, establishing this minimum would help keep State's data collection burden down. Once we revised the definition of the served population to include only those youth who receive independent living services, a minimum age was not necessary. We also did not see a justification to regulate beyond the requirements of the statute, which does not include a minimum age for receipt of CFCIP services.

In paragraph (b), we identify the baseline population as all 17-year-old youth in foster care during a Federal fiscal year for the purpose of collecting outcome information. We are referring to these youth as the baseline population because we intend to look at cohorts of older youth over time, beginning at the point that a cohort turns age 17 while in foster care. As such, the 17-year-olds represent the starting point or "baseline" of our information on youth's independent living outcomes and experiences. When we collect additional information on these youth as they age (at 19 and 21), we refer to them as the follow-up population, which we will describe further below. We are requiring that States collect outcome information on the baseline population, along with the follow-up population in response to the statutory requirement that we develop data elements that are needed to track State performance on youth outcomes. The statute's provisions on outcomes are quite broad, leaving the decisions on how and on which youth we collect outcomes information up to ACF in consultation with stakeholders. After our consultation, we believed that surveying the same youth over time would best meet our needs of understanding trends in youth outcomes and potentially assessing the effect that a State's independent living services have on those youth outcomes.

We settled on proposing 17-year-olds in foster care for whom we would initially collect outcome information as the baseline population after considering a number of other proposals. We considered defining the initial outcome collection or baseline population as all youth who were discharged from foster care at age 16 or older. The primary reason for considering 16-year-olds or older youth at the point of discharge as the baseline population was so we could have information on how prepared youth are for independent living at the time they leave foster care. However, participants in the consultation process noted several difficulties with using the point of discharge. First, States emancipate youth at varying ages, ranging from 18 to 23 depending on State policy and the circumstances of the youth. Consequently, using the point of discharge for youth age 16 and older as a basis for defining our baseline population would result in a group of youth who ranged in age from 16 to 23 across the States. We determined that because some of the outcomes, such as educational attainment, are strongly influenced by age and developmental status, it was important to establish consistency by defining a baseline population that included youth of the same age. An additional difficulty with defining the baseline populatien in terms of the point of discharge is that "discharge" is defined differently across States and it would be difficult to develop a single definition that would accommodate this variation. Also, some youth leave their placements before formal discharge. sometimes because they run away or are detained on delinquency charges, and thus are not available for discharge interviews. For these reasons, we decided to define the baseline population, in part, on a fixed age rather than a fluid measure such as the youth's exit from foster care.

We also considered a baseline population that would be fixed at the youth's 17th birthday but required that the youth have been in foster care for a specific length of time, such as six months or 12 months. We thought that establishing a minimum time in foster care would ensure that youth were in foster care long enough to receive independent living services. However, we decided not to require a minimum length of time in foster care because that approach overly complicated the data collection without a measurable benefit or clear basis of the appropriate minimum length of time.

Ultimately, we chose to look at the outcomes of all 17-year-old youth in foster care. We chose 17 as the age for our baseline population because it was close to the age when most youth leave foster care for independent living (between ages 17 and 19). We also chose to look at all 17-year-olds in foster care, as opposed to youth who actually had received independent living services. We are able to look at all 17-year-olds because the statute's provisions regarding outcome information do not limit us to those youth who are receiving independent living services. Moreover, we believe it is important to capture information on both youth who receive services and those who do not in determining youth outcomes and assessing State performance.

In paragraph (c), we identify the follow-up population as young people who turn age 19 or 21 in a fiscal year and who participated in the State's data collection as part of the baseline population (i.e., at age 17). A youth is considered to have participated as part of the baseline population if the State collected and reported a valid response (i.e., a response other than "declined" and "not applicable") to any of the outcome-related elements (described later in 45 CFR 1356.83(g)(38) through (g)(60)). The follow-up population is not limited to youth who are still in foster care, or who are receiving independent living services in the State at those later ages.

In establishing a follow-up population in order to look at outcomes, we first wanted to ensure that the follow-up population would include at least some young people who are no longer in foster care. Including young people who have been discharged from foster care is important because we must look at some outcomes required by the law, such as homelessness, that cannot be assessed until after youth have been discharged. We learned through the consultation process that stakeholders are interested in whether youth who remain in foster care fare better than their counterparts who have left foster care. We considered restricting the follow-up population for outcome information to youth who had been discharged from foster care and who were continuing to receive independent living services. Based on information from participants in the consultation process, however, we determined that this restriction was not appropriate because it was too limited to assess adequately the performance of the States in operating independent living programs.

We then considered what would be reasonable points at which to evaluate how youth were progressing on the outcome measures that were most critical to a youth's successful transition to independent living, and also feasible for States to follow.

We chose age 21 as the upper boundary for outcomes collection primarily because the Chafee law requires that States provide independent living services up to that age. Even though we also are capturing information on youth who may not necessarily benefit from Federal Chafee

funds, we expect that the Chafee funding will guide many of the services that States provide. Also, although age 18 is considered the age of majority in most States, many stakeholders pointed out that mainstream society often does not expect youth to be fully self-sufficient until age 21 or later. We thought, therefore, that looking at youth at age 21 was a reasonable point to focus on final outcomes for our purposes, although we acknowledge that reaching adulthood is a process rather than an event that we expect to occur by a specific age. We considered an even later age such as age 23, since the education and training vouchers authorized under section 477 of the Act allow a State to continue to provide vouchers to that age in certain circumstances. However, we believe that for those young people who are not receiving vouchers, it is even more likely that at age 23, they will decline to participate in data collection than youth at age 19 or 21 who are not receiving services. Furthermore, with the passage of time the State agency will have lost contact with the youth after the youth's emancipation or last receipt of independent living services.

After determining this upper boundary, we considered whether we needed another point in time to assess youth for outcomes. We believe that having an interim age for follow-up would allow States to preserve the sample by keeping in contact with youth who have aged out of foster care. More importantly, looking at outcomes at an interim age can give us further insight into youth's developmental pathways. In looking at youth outcomes at a variety of ages, we can better observe how youth are making the transition to adulthood and self-sufficiency. We chose age 19 in particular because it was halfway between the initial outcomes collection and the upper boundary, but also because it is an age when there are still some youth who are in foster care (there are over 10,000 youth age 19 and older according to AFCARS) or receiving independent living services from the State.

Section 1356.82 Data Collection Requirements

In this section, we detail the proposed data collection requirements. As used here, data collection refers to the State's process for obtaining information that meets the data requirements for each youth in the reporting population.

In paragraph (a)(1), we propose that a State collect information for the applicable data elements on each youth for each reporting period in which the youth receives independent living services. In other words, we are requiring that States collect detailed, client-level data for as long as the youth receives independent living services.

We chose to propose that States collect client-level data on services, rather than aggregate data because of the utility of client-level data. Client-level data supports more sophisticated analysis of the services provided to youth and the characteristics of the youth who receive them. For example, with the client-level data proposed here we can analyze youth receiving employment services by age, gender and location. Aggregate- or program-level data provides only general totals of services and characteristics and descriptions of the States overall independent living program. While aggregate data often is less burdensome for States to collect, we do not believe that aggregate data will adequately assist us in meeting the law's objectives to develop outcome measures.

Unlike data collection for a youth in the State's baseline or follow-up population, which is conducted at specific times according to a youth's age, we propose that the State's data collection for a youth in the served population will continue for as long as the youth receives services. We are mindful that each State must coordinate with service providers in order to track and collect information about youth receiving independent living services accurately. During consultation we heard from State participants that they had anticipated tracking independent living services on an ongoing basis in response to the law and their own State needs, and that this approach would not pose a significant additional burden.

In paragraph (a)(2), we propose that the State collect outcomes information on the baseline population (17-year-olds in foster care) by surveying the youth. Again, we chose case-level data rather than aggregate data because case-level data better lends itself to analysis. We will require States to collect information on a new baseline population every three years. We chose this schedule, rather than annually in order to avoid imposing an unnecessary burden on States. Participants in the consultation process pointed out that youth outcomes generally do not change substantially from year to year, and collecting outcome data every three years should be sufficient to document trends and address the legislative requirements. We propose that States begin to collect outcomes data on the baseline population in the first fiscal year of implementation of the NYTD system in paragraph (a)(2)(i). As stated in paragraph (a)(2)(ii), States will then collect outcomes on a new baseline population every three years thereafter.

We also are proposing that the State collect outcome information within 45 days following the youth's 17th birthday, but not before that birthday. We allow 45 days to collect the data, rather than requiring data collection on each youth's birthday, to reflect real-life tracking and scheduling constraints. We also want to impose this time frame to ensure that the youth are as close as possible to the same age—i.e., all have recently attained their 17th birthdays—to make them comparable on that characteristic. This is particularly important in understanding certain outcomes, such as the youth's highest educational certification level received which is age-sensitive. Finally, we want to make sure that States obtain outcome information on the greatest number of 17-year-olds in foster care possible, rather than leaving it until later in the year when the youth may leave foster care voluntarily or otherwise be engaged in a number of activities in preparation for discharge.

We want to note that by giving States 45 days to collect information on 17-year-olds, we realize that States may not collect information on youth whose birthdays fall at the end of any given fiscal year (i.e., in September) at the same rates as youth with other birth dates. We acknowledge that this is not an ideal situation, but we believe that giving States a sufficient window of opportunity to collect information on youth is preferable to ensure that all 17-year-old youth are captured.

In paragraph (a)(2)(iii), we direct States to the survey in Appendix B of the proposed regulation that States are to administer to youth in the baseline population. We chose to regulate this survey to ensure that each youth is provided with standard questions and response options, which will improve the consistency of the information collected nationwide. We are not, however, regulating the manner in which States administer the survey. Therefore, States are free to administer the survey questions to youth in person or over the phone, through the mail or email, using automated-surveys over the internet, or via any other suitable method.

In paragraph (a)(3), we propose that States collect information on each youth in the follow-up population during the reporting period that the youth turns ages 19 and 21. We chose the six-month reporting period time frame because we are interested in getting timely information on the older youth. We originally considered a 45-day time

frame for States to collect outcomes information on these older youth as well, but do not believe that education information collected on older youth is as time-sensitive as it is for 17-year-olds. Moreover, we believe that for those 19- and 21-year-olds who are no longer in foster care, we are likely to get more complete outcome information if we allow States adequate time to locate these youth. States will need to institute appropriate procedures to contact youth who may turn 19 and 21 near the end of a reporting period early enough to ensure that the State is able to collect the outcomes information in the required time frame.

Since the State collects information on a new baseline population every three years rather than every year, data collection on follow-up populations will occur only in years with no data collection on baseline populations. That is, in any given year, data collection for outcomes will occur on only one group of youth, as shown in the table below.

Implementation year	Reporting population		
	Baseline	Follow-up	
	17-year-olds	19-year-olds	21-year-olds
1	✔		
2			
3		✔	
4	✔		
5			✔
6		✔	
7	✔		
8			✔

As stated earlier, we considered a number of different options for collecting information on outcomes for older youth before proposing here that States gather outcome information on a wide range of youth, some of whom may no longer be in foster care or even receiving independent living services. We understand that this approach requires States to keep contact information on a youth before leaving foster care and develop various systems to track a youth's whereabouts once the youth no longer has regular contact with the child welfare/CFCIP agency. We expect that for many States this type of follow-up with youth who have left the system will be new and challenging. We are, therefore, publishing a draft technical assistance document on the Children's Bureau's Web site (*http://www.acf.hhs.gov/programs/cb*). We hope that this document will provide commenters with an understanding of the various methods that States can use to track youth and a sense of the effort that doing so entails. Further, we anticipate providing States with technical assistance to help them develop their tracking methods during implementation of the proposed NYTD.

In paragraph (b), we propose to allow the State to select a sample of youth from the baseline population of 17-year-olds who participated in outcome data collection to track over time. The youth selected for the sample will then comprise the follow-up population of 19- and 21-year-olds. The sampling procedures are discussed in section 1356.84. This proposal is in direct response to feedback during the consultation process that requested that any survey of outcomes for youth who had left foster care utilize sampling to mitigate the burden of tracking youth for most States.

We welcome comments on the feasibility of collecting data on 17-, 19- and 21-year old young people as outlined in this section.

Section 1356.83 Reporting Requirements and Data Elements

Reporting periods and deadlines. In paragraph (a), we propose that each State must submit a data file containing a record for each youth in the reporting population on a semi-annual basis. The term "data file" refers to the entire package of information that a State reports to ACF each reporting period.

We had considered a 12-month reporting period, but felt that a longer period may increase the risk of inaccurate or missing data. Further, since we want to preserve our ability to analyze NYTD data along with AFCARS data, we wanted comparable reporting periods. Finally, during consultation, States informed us that semi-annual reporting does not impose an undue burden on their resources, since the majority of the burden is in collecting services and outcomes information which remains an ongoing activity regardless of the length of the reporting period.

In paragraph (a) we also propose that the NYTD reporting periods extend from October 1 to March 31 and from April 1 to September 30 of each Federal fiscal year. These periods are the same as the AFCARS reporting periods. We propose that a State must submit its NYTD file within 45 days of the end of the reporting period. We believe that 45 days will give a State sufficient time to compile NYTD data for submission based on our experience with AFCARS which also has a 45-day submission period.

Data elements for all youth. In paragraph (b), we propose that a State report 13 data elements (see paragraphs (g)(1) through (13)) for each youth in the reporting population, regardless of their status in the served, baseline, or follow-up subpopulations. These elements require States to gather information that identify the State, the youth, and provide basic youth demographics. Most of these data elements need only be collected once from a youth or extracted from the State's case management information system (e.g., date of birth, sex, race), but we propose that a State report these data to us in every reporting period during which the youth appears in the reporting population to ensure accurate records.

Data elements for served youth. In paragraph (c), we propose that a State report 19 elements (see paragraphs (g)(14) through (g)(33)) for each youth in the served population. These elements are in addition to the basic demographic elements required in paragraph (b). The majority of these data elements relate to the actual services and assistance that the State provides to the youth. Some of these data elements, however, require a State to record additional characteristics of the youth who are receiving services, including the youth's special education status and educational level, and whether or not the youth has been adjudicated delinquent or belongs to an Indian tribe. We believe these additional characteristics will allow us to analyze any service or outcome differences for particular groups of youth.

Data elements for baseline and follow-up youth. In paragraph (d), we propose to require the State to report the outcome-related data elements (see paragraphs (g)(34) through (g)(60)) on each youth in the baseline population. These elements are in addition to the basic demographic elements required in paragraph (b). These data elements pertain to the six outcomes that we have made the focus of this data collection activity. Similarly in paragraph (e), we propose these same outcome-related elements for each youth in the follow-up population.

Single youth record. In paragraph (f), we propose that a State report to us all applicable data elements for a youth in a single record per reporting period. The term "record" is used to represent all the data associated with a single youth that is submitted in the State's data file. The file will contain one record for each youth who is in at least one of the three NYTD subpopulations: served, baseline, or follow-up population. For example, if a youth is in the served population in a reporting period, then the State's data file would contain a record for this youth that reports the basic demographic, characteristics and service data elements (i.e., the record would contain valid responses for the elements described in paragraphs (g)(1) through (g)(33) and contain no responses for the elements described in paragraphs (g)(34) through (60)). In the next reporting period, if the same youth is still in the served population, but now is also in the baseline population, the State's file would contain one record for this youth that reports all data elements (paragraphs (g)(1) through (g)(60)).

Data element descriptions. Paragraph (g) describes all of the data elements. The definitions of each element include the acceptable values or valid response options.

State. In paragraph (g)(1), we request information on the State that is reporting the youth to the NYTD. The State must use the numeric Federal Information Processing Standards (FIPS) code to identify itself. We use the FIPS code because it is a standard issued by the National Institute of Standards and Technology (NIST) to ensure uniform identification of geographic entities through all Federal government agencies. The State is also required to use this standard for AFCARS reporting purposes.

Report Date. In paragraph (g)(2), we propose that a State indicate the reporting period date. Specifically, States are to report to us the last day of the month that corresponds with the end of the reporting period, which will always be either March 31 or September 30 of any given year. This information allows us to identify all youth records for the same reporting period.

Record Number. In paragraph (g)(3), we propose that a State report the youth's record number, which is a unique, encrypted person identification number. The State must apply and retain the same encryption routine or method for the person identification number across all reporting periods. The State's encryption methodology will need to meet any ACF specifications we prescribe through policy.

Encryption will ensure that the youth's identity is kept confidential. Although encryption is one of a number of methodologies that a State can use to code confidential information, we are requiring encryption as opposed to other methods of ensuring the confidentiality of the identity of the children, such as sequential numbering, because it is secure and easier than other methods for States to cross-reference records for identification at a later date. For example, encryption protects a child's sensitive information by masking the State or local agency's person identification number from Federal staff, researchers or other persons who may come into contact with the data the State submits to ACF. In practice, a State encrypts a record number by applying a mathematical formula known as an algorithm to code the numbers. The State reveals the original person identification number by applying the reverse mathematical formula, a process known as decryption. The State ensures confidentiality by keeping the mathematical formula secure and limiting access to the formula to authorized persons only.

Encryption also is more efficient than some other methods because the State need only safeguard the decryption key, not a whole list of numbers which cross walk between the masked identification number and the real record number. In addition, the vast majority of States use encryption methods already in reporting information to AFCARS. The few States that do not use encryption currently have indicated to ACF that they intend to use encryption in the near future. We believe, therefore, that requiring an encryption method will involve a minimal burden to States.

In subparagraph (g)(3)(i), we require States to use the same person identification number for NYTD that they use for AFCARS when a youth has been in the State's foster care system. As discussed earlier, we believe that by requiring States to use the same person identification number for youth in foster care and those receiving independent living services, we will lay the groundwork for associating information between AFCARS and NYTD. We believe that States share our interest in having the capacity to analyze a youth's additional demographic information and placement history in AFCARS, where it exists, for the purposes of further understanding independent living services and outcomes.

For these associations to be made, however, States must also use the same person identification number for youth regardless of whether or where the child is in foster care or receiving independent living services in the State and use the same number for every episode of foster care or service receipt. The consistency in assigning person identification numbers and the encryption method will allow States and ACF to make associations between a youth's experiences over time and will allow us to develop annual files from the two six-month reporting periods and perform case-level longitudinal cohort analyses.

Although we are not requiring so here, we strongly encourage States to also use the same person identification number in the NYTD (and AFCARS) that they may use for NCANDS reporting purposes. Again, we believe that States will find that making associations across the various child welfare databases will increase their ability to analyze the data for program and policy purposes.

In subparagraph (g)(3)(ii), we specify that for youth who were never in the State's foster care system, the State must assign a person identification number for the youth and use it consistently for as long as the youth receives independent living services. This would be the case for a youth who is in the served population currently, but who is (or was previously) in tribal or private foster care, or for a youth who moves across State lines after leaving foster care. We are not requiring States to seek out the original record number of a youth who was in foster care or received independent living services in another State or who was in the placement and care responsibility of a private or tribal foster care system. We believe that the burden and cost to States of finding this information and working through the inconsistencies between States' number assignment, confidentiality policies and encryption methods is prohibitive and outweighs the usefulness of the data. As a result, States and the Department will be unable to associate information on youth's entire foster care and independent living experience when the child is served by more than one State or tribal child welfare agency.

Date of birth. In paragraph (g)(4), we ask the State to report the youth's date of birth. This information will allow us to capture the youth's age and also determine whether the State collects outcome information for a youth within the required time frame (see section 1356.85 on compliance for more information).

Sex. In paragraph (g)(5), we ask States to report the gender of the youth. This information will help us analyze the services and outcomes for youth by gender.

Race. Paragraphs (g)(6) through (g)(12) request information on the youth's race. The racial categories of American Indian or Alaska Native, Asian, Black or African American, Native Hawaiian or Other Pacific Islander, and White listed in paragraphs (g)(6) through (g)(10) are consistent with the Office of Management and Budget's (OMB) standards for collecting information on race (see OMB's Provisional Guidance on the Implementation of the 1997 Standards for Federal Data on Race and Ethnicity, at *http://www.whitehouse.gov/omb/inforeg/re_guidance2000update.pdf* for more information). Each racial category is a separate data element to represent the fact that the State is required to allow the youth to identify with more than one race. Consistent with the OMB standards, self-reporting or self-identification is the preferred method for collecting data on race and ethnicity. This means that States are to allow a youth or his/her parent(s) to determine the youth's race.

If the youth's race is unknown, the State is to indicate so as outlined in paragraph (g)(11). It is acceptable for the youth or parent to indicate that the youth identifies with more than one race, but does not know one of those races. In such cases, the State must indicate the racial categories that apply and also indicate that a race is unknown. Finally, if the youth or parent declines to identify the youth's race, the State must indicate that this information was declined as outlined in paragraph (g)(12).

Ethnicity. In paragraph (g)(13), we propose that a State report the Hispanic or Latino ethnicity of the youth. Similar to race, these definitions are consistent with the OMB race and ethnicity standards. Also, the State may report whether the youth's ethnicity is unknown or whether the youth has declined to provide this information.

In the group of data elements in paragraphs (g)(14) through (g)(33), we propose that a State report information on the characteristics of youth and services provided by the State for the served subpopulation (as defined in section 1356.81).

Foster care status—services. In paragraph (g)(14) we propose that a State indicate whether a youth receiving services was in foster care at any point during the reporting period, consistent with our programmatic definition of foster care in the regulations at 45 CFR 1355.20. For the purposes of this element, a youth is in foster care if the State title IV–B/IV–E agency had placement and care responsibility for the youth and the youth was in 24-hour substitute care away from his or her parents or guardians at any point during the reporting period. This element will aid our analysis of how States provide youth in foster care with services versus those that have left foster care.

Local agency. In paragraph (g)(15), we propose that a State report the data element local agency. For youth in foster care, States must report the county or equivalent jurisdictional unit that has primary responsibility for the youth's placement and care. If the youth is not in foster care, a State must report the county with primary responsibility for providing services to the youth. A State may report multiple local agencies if more than one agency meets this element description. If a centralized unit is responsible for the youth's services rather than a local agency, then the State must report this information. This element does not apply to youth who are being surveyed for outcome information only.

This element is only relevant for youth who are in the served population because our primary goal is to determine which local jurisdiction has responsibility for providing the youth with independent living services. We hope to be able to use this information to analyze whether there are any particular geographical strengths or barriers to a youth receiving independent living services in the State. We struggled with how to describe this data element given the variety of venues in which youth receive services. The youth's county of residence may not correspond with the jurisdiction that is providing services. For example, a youth may have emancipated from State A and have an education and training voucher from State A which the youth is using to attend college in State B. Or, a youth may have moved from one county to another within the State during a reporting period and have received independent living services from both counties. We determined that for the purposes of this data collection effort, where the youth is receiving services is secondary to the jurisdiction that is providing the services.

Tribal membership. In paragraph (g)(16), we propose that a State report whether a youth receiving independent living services is enrolled in or eligible for membership in a federally recognized Tribe. The State already may have this information if the youth was in foster care in the State, or the State can ask the youth whether or not he/she belongs to a federally recognized Tribe.

We consider a youth's tribal membership important because section 477(b)(3)(G) of the Act specifically requires each State to certify that "benefits and services under the programs will be made available to Indian children in the State on the same basis as to other children in the State." The statute's explicit inclusion of tribal youth extends services not only to those Indian youth who are in a State's foster care system, but to all youth who may be in tribal custody or are otherwise eligible for services under this program.

The definition of this element uses the same definition of Indian tribe in the Indian Self-Determination Act and regulations published by the Bureau of Indian Affairs (BIA) within the Department of Interior. States may consult the BIA's list of federally recognized tribes published in the **Federal Register** most recently on November 25, 2005 (70 FR 71193) or contact the BIA to determine whether a Tribe is federally recognized.

During the consultation process, child welfare experts and advocates for Indian children emphasized that identifying Indian youth will help us learn about characteristics and services specific to this subpopulation. Experts and advocates also pointed out that requiring States to report tribal membership would help raise State agencies' awareness about the importance of identifying tribal youth.

We considered various ways of reporting this information, including asking States to report the name of the Indian Tribe of which the youth is a member. During the work group discussions and pilot test, it became clear that such detail was impractical and yielded results of little value. We found it was difficult for respondents in our pilot test to identify the appropriate Tribe out of the more than 560 federally recognized Tribes. Identifying the specific Indian Tribe was further complicated because in many instances the youth must self-identify his or her tribal affiliation. Even in the small pilot test we conducted, some youth affirmed they were in a Tribe but were unable to provide the name of the Tribe. Ultimately, we decided that reporting whether a youth is enrolled in or eligible for membership in a Tribe

would give us critical information without introducing the complications associated with specifying which Tribe.

Adjudicated delinquent. In paragraph (g)(17), we propose that a State report whether a youth receiving services was ever adjudicated delinquent, which means that a Federal or State court has adjudicated the youth as a juvenile delinquent. During consultation, several participants noted that identifying this population is important because youth who have been adjudicated delinquent may receive different services than other youth.

Although this data element is primarily intended to identify those youth who have been involved in the juvenile justice system, during the pilot test we asked participating States to answer a broader question that identified the youth's point of entry into foster care. That original data element included response options to differentiate youth who entered foster care through (1) child protective services (CPS); (2) State programs for children or persons in need of supervision (typically called CHINS or PINS); (3) juvenile justice; (4) mental health; (5) tribal agency; or (6) other arrangements. We included this broader element in the pilot test because we believed that this information would help us to better understand and analyze the characteristics of youth who are served. However, we recognized later that this broader element had several problems:

- Not all youth who receive independent living services are in foster care currently or were in foster care in the State, and so collecting information about how a youth entered foster care would not be relevant or readily obtainable for all youth in the NYTD reporting population.
- It is difficult to create response options that can be applied consistently across all States because States differ in their organizational structures and definitions of CHINS/PINS, mental health, CPS, and juvenile justice.
- The difficulty of defining precise response options is further compounded by the fact that many of the youth may be, or have been, involved in multiple systems. States may not be able to clearly identify the appropriate response option for a youth with a complicated history.

In the end, we were not sure that specific information was essential for the NYTD. We therefore decided to simplify the proposed data element to capture the most essential information. We consider youth adjudicated delinquent as the most important data element to propose for our purposes. The organization of a State's child welfare and juvenile justice systems contributes to the proportion of that State's juvenile justice population who are also receiving independent living services. This data element may help to inform how we interpret data on independent living services.

With the proposed simplified definition and response options, we realize we may lose some precision about the extent to which the reporting population may be involved in juvenile justice systems. We also recognize that youth who are adjudicated delinquent are not a homogenous group. The courts have a range of sanctions available to them once a youth is adjudicated delinquent, which could include ordering confinement in a wide-range of institutions or out-of-home placements, probation, fines, or treatment. Therefore, we understand that youth who are adjudicated delinquent may be a part of States' foster care systems in a number of different ways, for different reasons, and have varying outcomes. We believe, however, that "adjudicated delinquent" is the most specific and consistently applied term relating to a youth's involvement in the juvenile justice system. We further believe that any differences in services for youth who have been involved in juvenile justice systems will be adequately identifiable by categorizing those youth who have been adjudicated delinquent.

Education data elements. In paragraphs (g)(18) and (g)(19), we propose that a State report information on the youth's highest education level and whether the youth receives or received special education instruction during the reporting period. We propose to collect this information to help us interpret the information on services. We believe that gathering information on how a youth progresses in school over time is a key piece of information in understanding the types of services the youth receives.

In the course of developing the educational level element described in paragraph (g)(18), we analyzed several ways of capturing information about a youth's education. In the pilot test, we asked States to report three data elements related to education: current school enrollment status, educational level (last grade completed), and highest education certificate received. As we refined the instrument, we wanted to limit the number of data elements that would have to be updated frequently by caseworkers. We believe the proposed element captures the fundamental information intended by the three data elements pilot tested.

We included a special education element as an additional educational characteristic in paragraph (g)(19), in response to consultation participants' concern that a significant number of youth in foster care also have special education needs. Unfortunately, youth with special education needs may encounter more obstacles in reaching self-sufficiency than other youth. We believe that it is important to identify these youth in the reporting population because they may require a different service array or intensity of services than youth who are not receiving special education. Our definition of special education for the purposes of this element is consistent with the definition in 20 U.S.C. 1401(25).

Discussion on all data elements related to services. In paragraphs (g)(19) through (g)(33), we propose to capture the range of services and financial assistance States provide to youth through their independent living programs.

First, we will discuss general issues relevant to all services and assistance provided, followed by a discussion of issues germane to the individual data elements. Four major issues dominated our consideration of how States should report the type and quantity of services, as is required by the law: what types of services to include; how to measure the quantity of services; whether to reflect the manner in which States deliver services; and, whether States should report why a youth did not receive services. Each issue is discussed below.

The Act provides States with the flexibility to fund services for a broad range of independent living needs. During conference calls with State staff, we learned that in general, States are tracking the services that they pay for in their information systems. However, States often do not keep detailed data on the types of services provided to youth. Many States believed that a requirement to collect such detailed data would overburden caseworkers unnecessarily. Therefore, we believe that for States to report the information accurately to us, we must attempt to define the categories of services broadly and keep them relatively few in number compared to the variety of services States provide. We are, therefore, proposing 11 comprehensive data elements related to services and supports: independent living needs assessment; academic support; post-secondary educational support; career preparation; employment programs or vocational training; budget and financial management; housing education and home management training; health education and risk prevention; family

support and healthy marriage education; mentoring; and supervised independent living.

Because these definitions are broad, we acknowledge that a particular service may not fit neatly into one of the 11 categories. For example, if a youth attends a class that spends an equal time on home management and health education then the State should report that the youth received services under both service categories. If a youth attends a class that primarily covers budgeting and financial management but also briefly discusses housing education, then we expect that the State will report this service only in the home management category. We do not intend to regulate how much time spent on a particular topic qualifies as a service, but expect that States will choose the appropriate service category keeping in mind the relative benefit to the youth.

Section 477(f)(1)(B)(ii) of the Act requires ACF to identify data elements to track both the type and quantity of services provided by States. We propose to measure quantity of services in its broadest sense by keeping track of the different categories of services that youth receive during a reporting period. For example, we will know from the NYTD that a youth received three different independent living services in a given reporting period, such as educational financial aid, post-secondary educational support and mentoring. However, under this proposal we will not know the exact quantities of each service. For example, we are not asking States to report to us whether a youth met with his mentor once a week or just once during the reporting period, whether he attended one or five two-hour long SAT preparation classes, or whether the State provided $500 or $5000 in educational financial aid.

In developing our proposal, we considered how States could report the quantity of services consistently, accurately and meaningfully, given the variation in how States provide independent living services. One of the options we considered for measuring the quantity of services was the hours of service. In the pilot test, we asked respondents to record the number of hours of formal services a youth received. The caseworkers and supervisors who participated in the pilot test reported spending enormous amounts of time trying to locate information about hours of service, and many respondents reported estimating or guessing the hours of service. Services provided informally were not easily quantifiable, and even services provided formally were difficult for pilot respondents to measure by the hour. Caseworkers reported not being able to verify whether a youth actually received all components of a scheduled service (e.g., whether the youth actually attended all sessions of a budgeting class). Although we encourage workers to follow youth closely to ensure that young people are receiving the services necessary to prepare them for independent living, the substantial burden on workers and questionable accuracy and validity of the reported data on service hours defeated the purpose of trying to achieve such a high level of precision in this data collection.

After determining how States will quantify services, we considered whether requiring States to inform us how the services were delivered would inform our understanding of service types or quantity. As discussed earlier, some independent living services are delivered in formal units or are planned and structured services, while others are delivered on a more spontaneous basis. Both work group members and pilot test respondents emphasized that effective services may be delivered informally and noted that some States train and rely on foster parents to deliver services in that manner. Also, caseworkers who responded in the pilot test reported that they often rely on "teachable moments" to deliver important support and skill-building services to youth. These respondents expressed concern that it could appear as if they were not providing adequate services if only planned, formal services were reported.

Based on this feedback we initially considered developing response options of "planned," "spontaneous" or "both" to indicate the manner in which the State provides a service to the youth. However, we chose not to propose these response options in this NPRM because we did not believe that this information was central to the statutory requirement to collect information on type and quantity of service. We would like to note however, that the elements are defined broadly so that States must send us information on services regardless of whether they are delivered to youth formally or informally.

We also considered adding response options to the services elements that would include reasons why a youth had not received a particular service. This option was most relevant when we were contemplating a reporting population that included all youth in foster care, regardless of whether the youth were receiving services. This consideration was based on comments we received from the pilot respondents who reported that simply responding that a youth did not receive the service does not tell us why it was not received. For example, we would not know whether a youth did not receive a service because it is unavailable in the State or locality, unallowable according to State policy or eligibility criteria, or unsuitable given the youth's age and/or needs. Feasibly, a State may offer a youth an appropriate service and the youth may decline the service. We then considered expanding the response options so that States could indicate that services were not needed, services were not available or not offered, and services were offered but declined.

Ultimately, we decided not to propose any expanded response options because the statute requires data elements to track services provided to youth, and does not require the reasons that services are not provided. We also determined that gathering services information on youth who were not currently receiving services went beyond the law's mandate as discussed earlier. Moreover, this proposal required caseworkers to make decisions about why a youth did not receive a particular service, when the response options may not be mutually exclusive. We concluded, therefore, that even if this information was desirable it was likely to be inaccurate.

Independent living needs assessment. In paragraph (g)(20), we propose that a State report information on whether a youth received an independent living needs assessment during the reporting period. The Act does not require that States provide independent living needs assessments; however, we understand that most do and believe that States can only provide youth with adequate services once they have thoroughly assessed the youth's strengths and needs in transitioning into self-sufficiency. During the consultation process some States and national organizations indicated that this item was one of the most essential services a State could provide.

Academic support. In paragraph (g)(21), we propose that a State indicate whether the youth is receiving services that can help him/her complete high school or obtain a general equivalency degree (GED). Support for post-secondary schooling and employment are included in other data elements. We included this element because we believe that academic support, beginning several years before high school, can help a youth obtain a high school diploma, or GED, which can lead to other positive outcomes such as entry into post-secondary education, vocational training, and employment. We also understand that most States provide this type of educational

support. The law also requires that we track a youth's receipt of a high school diploma as an outcome measure, so we felt it important to capture to what extent States are providing youth with services that support this outcome.

Post-secondary educational support. In paragraph (g)(22), we propose that a State report the data element post-secondary educational support, which includes those services that help a youth enter or complete college. Section 477(a)(3) of the Act identifies a purpose of the CFCIP as helping "children who are likely to remain in foster care until 18 years of age prepare for and enter postsecondary training and educational institutions." Section 477(a)(5) of the Act also specifies that funding is available to provide education services to former foster care recipients between 18 and 21 years of age. Also, since the law directs us to measure a youth's educational attainment as an outcome measure, we wanted to collect information on the services that States provide to assist youth in furthering their education.

Career preparation and employment data elements. In paragraph (g)(23), we propose that a State report whether the youth receives career preparation services which focus on developing a youth's readiness to find or hold a job. In paragraph (g)(24), we propose that a State report another data element about employment, employment programs and vocational training, which includes those services intended to build skills for a specific trade, vocation, or career. We included these services because the law encourages States to use their CFCIP funds to assist youth in obtaining employment. In particular, section 477(a)(2) of the Act states that one purpose of the Act is "to help children who are likely to remain in foster care until 18 years of age receive the education, training, and services necessary to obtain employment." Section 477(a)(1) of the Act also specifies that States may use the funding to provide services such as assistance in "career exploration, vocational training and job placement and retention." Both of these elements also help us identify the services that States provide to youth in support of their attaining employment, which is an outcome measure specified in the law.

The basic distinction between the two employment-related data elements described above is that career preparation refers to general skills that help a youth obtain and retain employment, while employment programs or vocational training refers to programs that help a youth gain expertise and skill in a specific field or profession. During our consultation process, we learned that employment programs or vocational training are usually administered as planned activities which require that a youth enroll in a class or schedule an activity while career preparation may be offered on a more ad-hoc basis.

Budget and financial management. In paragraph (g)(25), we propose that a State indicate whether the youth is receiving training in budget and financial management. We consider budget and financial management to include education and practice in areas such as budgeting, banking, consumer awareness, information about credit, loans, and taxes. We included this element because budgeting is a common feature in States' independent living services and is an essential life skill. Section 477(a)(1) of the Act highlights training in budgeting and financial management skills as an example of assistance that helps youth make the transition to self-sufficiency.

Housing education and home management training. In paragraph (g)(26), we propose that States report whether the youth is receiving housing education and home management training, which refers to instruction and support services to locate and maintain housing, understand tenant and landlord responsibilities, and acquire home management skills. We believe this information is important to capture as one of the purposes of the law is for States to provide housing and other appropriate support to former foster care recipients between the ages of 18 and 21 (section 477(a)(5) of the Act). Moreover, these support services may affect a youth's experiences with homelessness, which is an outcome measure specified in section 477(f)(1)(A) of the Act.

Health education and risk prevention. In paragraph (g)(27) we propose that a State report information on the health education and risk prevention information the youth receives. This information includes health-related educational topics such as the benefits of preventive care, fitness, and nutrition, but does not include receipt of direct medical and mental health services, dental services, or substance abuse treatment services. We also have included risk prevention topics in this element, including information on topics such as sexually transmitted diseases, abstinence, smoking avoidance and substance abuse prevention. This element reflects our interest in gathering information on the services the State CFCIP agency provides to youth to help them live healthy lives and avoid risky behaviors, particularly since the law directs us to develop outcome measures on youth engagement in high-risk behaviors.

Family Support and Healthy Marriage Education. In paragraph (g)(28), we ask states to report the family support and healthy marriage education that a youth receives, if it is paid for or provided by the CFCIP agency. This element includes education on maintaining healthy families such as parenting and childcare skills, spousal communication, family violence prevention, and responsible fatherhood. We have included this element because we believe that educating youth about maintaining strong families and healthy marriages is an essential element of responsible adulthood.

Mentoring. In paragraph (g)(29), we propose that a State report whether the youth is being mentored. By mentoring, we mean programs or services in which a youth regularly meets with a screened trained adult on a one-on-one basis. Section 477(a)(4) of the Act specifies that one purpose of CFCIP funding is "to provide personal and emotional support to children aging out of foster care, through mentors and the promotion of interactions with dedicated adults." Some participants during our consultation believed that mentoring was an essential service for youth as they transition into independent living. We also understand from reviewing States' CFCIP plans that many States support mentoring for older youth, so we want to be sure to capture this service.

Because we desire to collect information on true mentoring programs, rather than interactions with adults on an informal basis or for non-mentoring reasons, we have limited this element to capturing established mentoring programs which involves matching youth with screened and trained adults. For the purposes of this data collection, we are interested only in mentoring relationships that are established as a result of the CFCIP agency's work with the youth, and not relationships that may be facilitated or funded solely by other parties.

Supervised Independent Living. In paragraph (g)(30), we propose that a State report whether the youth is in a supervised independent living setting. These settings are formal living arrangements under the supervision of an agency, but where youth are not supervised 24-hours a day. During consultation, some participants considered this one of the more essential pieces of information to capture because it can give the agency insight into a youth's self-sufficiency while there is still an opportunity to provide supportive services.

Furthermore, the law specifically authorizes States to spend up to 30 percent of their Chafee allocation on room and board for youth between the ages of 18 and 21. Congress authorized funds for this purpose based on States' feedback that housing support is one of the greatest needs of young adults (see H. Report 106–182, June 10, 1999).

Discussion related to all financial assistance elements. In the group of data elements in paragraphs (g)(31) through (g)(33) we propose that a State report information that addresses different types of financial assistance provided to youth to support their transition to independent living. We decided to include information about financial assistance in addition to data elements about specific services to give a more complete picture of how States are supporting youth. All three of these data elements were included in the original pilot test in some form. Participants of the pilot test found financial information relatively easy to locate because those States require close tracking and accountability of funds.

Room and Board Financial Assistance. In paragraph (g)(31), we propose that a State report whether the CFCIP agency is providing the youth with financial assistance for room and board. The proposed definition for this element gives a State some flexibility in establishing its own definition of room and board assistance with some examples such as rent deposits and utilities, as the CFCIP legislation provides States with this latitude. We expect that many youth will receive this type of financial assistance, since section 477(b)(3)(B) of the Act allows a State to spend up to 30 percent of its allotment for room and board for youth between the ages of 18 and 21. Furthermore, we understand from reviewing States' CFCIP plans that many States support room and board for older youth.

Education financial assistance. In paragraph (g)(32), we propose that a State report whether the youth received financial assistance for education during the reporting period. This type of aid includes financial assistance for school books and materials, tuition assistance, examination and application fees, and educational vouchers for college tuition or vocational education. The inclusion of vouchers results from the Promoting Safe and Stable Families Amendments of 2001, which provides education vouchers to pay for college or vocational education. The vouchers are designed to increase the prospects of older youth in foster care of becoming self-sufficient and living independently.

Other financial assistance. In paragraph (g)(33), we propose that a State report any other type of financial assistance that the CFCIP agency provides to a youth in order to help the transition from foster care to self sufficiency. The definition in the regulation is minimal because we do not believe we could provide an exhaustive list of financial assistance. Nonetheless, such assistance may include payments for household expenses, subsidized transportation or payments for business attire for job or college interviews.

Discussion on all elements related to youth outcomes. In the group of data elements in paragraphs (g)(34) through (g)(60), we propose the outcome information that States must report to us for each youth in the baseline and follow-up populations. Some of the outcomes we are interested in capturing are relevant for youth only once they have left foster care (*e.g.*, dependence on public assistance), so they will not apply to youth in the baseline population or those in the follow-up population still in foster care.

In general, we refined these elements after gathering information from stakeholders about which outcomes they considered most important to measure for youth aging out of foster care, the outcomes for which the State CFCIP agency should be held accountable and outcomes which could be easily measured in a data collection system. Stakeholders suggested a number of outcomes that we rejected in the end because we did not agree that they could meet this test. Some of the proposed outcomes that we rejected included a youth's: access to essential documents; ethnic, cultural, and personal identity; social isolation; health care utilization (including mental health); leadership qualities; and general well-being, such as hopefulness, optimism, and resiliency. While the foregoing outcomes are important, we believe they are best measured through program evaluation. To that end ACF has funded a project to conduct an initial assessment and a five-year evaluation of selected programs funded through the John Chafee Foster Care Independence Program. The goal of the assessment is to identify programs that can be rigorously evaluated and to develop evaluation designs that will meet the requirements of the law. For more information see ACF's Office of Planning, Research and Evaluation Web site at: *http://www.acf.hhs.gov/programs/opre/*

We believe instead, that the following six outcomes are widely accepted as the responsibility of the State's CFCIP agency and straightforward for States to measure:

- Outcome 1: Increase young people's financial self-sufficiency.
- Outcome 2: Improve young people's educational (academic or vocational) attainment.
- Outcome 3: Increase young people's positive connections with adults.
- Outcome 4: Reduce homelessness among young people.
- Outcome 5: Reduce high-risk behavior among young people.
- Outcome 6: Improve young people's access to health insurance.

The data elements below all relate to these six outcomes and how the State collects the outcome information. The data elements are listed by outcome in Chart 1 at the end of the preamble.

Outcomes Reporting Status. In paragraph (g)(34), we propose that the State indicate whether the State is reporting any outcome information for the youth, and if not, the reason why the State was unable to obtain outcome information. This element is essential to our ability to understand why the State was unable to obtain outcome information from a youth, either initially at age 17 or later on at ages 19 or 21. We also expect that this information will increase our ability to target technical assistance activities to the States that are designed to improve either their procedures to track youth over time or their efforts to encourage youth participation.

In addition to declined participation, we have allowed States to indicate that the State is unable to report outcome information on the youth because he or she was incapacitated, on runaway status, incarcerated, died or the State is otherwise unable to invite the youth's participation. States may use these response options when a youth's participation clearly is not possible; for example, using the response option of "incapacitated" when a youth has a significant cognitive disability. However, we expect that States will attempt to invite the participation of all youth's when appropriate. For instance, a youth may be incarcerated but his incarceration alone may not prevent him from participating in the survey. Similarly, just because a youth may be temporarily incapacitated due to a hospitalization on the State's desired date of outcome collection, the State could attempt to collect outcomes information at a later time. We expect that a State's use of the incapacitated response option to be judicious and appropriate to the specific circumstances of the youth, particularly since a State must still meet the youth

participation rates discussed in section 1356.85(b).

In defining the response options, we were careful to try and distinguish between the various reasons why a State is unable to obtain outcome information. Nonetheless, we realize that it may be difficult for a State to pinpoint the exact reason for the youth's nonparticipation. For example, we have defined "youth declined" as the State inviting the youth's participation but the youth declining and "unable to locate/invite" as the State being unable to contact the youth successfully. If the State attempts to contact the youth several times at his last known address and does not receive any reply from the youth, it may not be clear whether the youth has chosen to ignore the solicitation or the State had the wrong address for the youth.

Finally, this element is meant to capture only the reason why the State was unsuccessful in getting any outcome information from the youth. Although we expect that a State will use all appropriate methods to encourage a youth to complete the outcome survey, a youth may decline to answer one or several of the individual survey questions for whatever reason. States will be required to capture and report these partial responses to us. We believe that even partial information will provide us and the States with information on youth outcomes and/or help us determine which outcomes questions are problematic for youth.

Date of outcome data collection. In paragraph (g)(35), we propose that the State report the last date that the outcome information is collected from the youth. If the information is collected on more than one date, the final date must be reported here. The purpose of requiring the State to report the date of outcome data collection is to allow ACF to assess whether the State collected the outcomes data within 45 days of the youth's 17th birthday and within the reporting period of the youth's 19th and 21st birthday, as required in section 1356.82. States must report the date of data collection and not when the information was entered into the State's information system.

Foster care status—outcomes. In paragraph (g)(36), we propose to capture the youth's foster care status at the time of the outcomes data collection. This element will enable us to identify whether outcome survey questions are applicable to the youth's situation (e.g., youth in foster care do not need food assistance because the child welfare agency is taking care of these needs, so this question is not applicable) and determine how a State is complying with the outcomes participation standards discussed in further detail in section 1356.85. We also want to note that this foster care status element uses a different time frame than that described in paragraph (g)(14). The foster care status-outcomes element focuses on whether the youth is in foster care at the time of data collection versus at any point during the six-month reporting period. This is because knowing whether a youth was in foster care at any point in the reporting period does not help us determine whether the outcome survey questions are applicable or whether the State is in compliance with the participation standards.

Sampling status. In paragraph (g)(37), we propose that the State indicate whether or not the 17-year-old youth in the baseline population will be a part of the follow-up population at ages 19 and 21. This is especially germane for States that choose to sample. We have included this element so that we can track whether States are reporting information on youth in the later years (see discussion of section 1356.85(b)(3)). We do not necessarily need the State to report all outcome information on each youth in the follow-up population, but we need to know whether the State is reporting the information or why the State was unable to report the information. This element will be applicable only every three years when the State has selected a new baseline population of 17-year-olds for outcomes data collection. During the years when the State is collecting information on the follow-up populations only, the State must indicate that this element is not applicable.

Current full-time employment. In paragraph (g)(38), we propose that a State report whether a youth is employed full-time, using a common definition of at least 35 hours per week. This data element is one measure for Outcome 1, pertaining to young people's financial self-sufficiency, which addresses the statutory requirement that ACF develop outcome measures related to employment. Youth with full-time jobs are more likely to be able to avoid dependency and achieve self-sufficiency.

Full-time employment and some of the following data elements require information on the youth's current status, which means the youth's experience as of the date the information is collected on the youth. Since our primary goal is to gather information that will help us understand the experience of youth as a whole and the State's performance, rather than assessing the outcomes for individual youth, we believe that the current status of the youth in most cases is sufficient.

Current part-time employment. In paragraph (g)(39), we propose that a State report whether a youth is employed part-time. This data element also addresses Outcome 1 pertaining to young people's financial self-sufficiency. Youth with part-time jobs may still be in school or training, in transition to full-time employment, or able to reduce or avoid dependency on public assistance better than those youth who are not employed. We also note that the elements for full-time employment and part-time employment are not mutually exclusive. A youth may have a full-time and part-time job concurrently.

Employment related skills. In paragraph (g)(40), we propose that a State report whether a youth completed an apprenticeship, internship, or other type of on-the-job training in the past year. This data element addresses an important aspect of employability and is a measure for Outcome 1 pertaining to financial self-sufficiency, which is whether a youth has acquired skills necessary to enter the labor market. Even if a youth currently is unemployed, the completion of an apprenticeship, internship, or other type of on-the-job training is an important achievement and an indication that the youth has some labor market skills. This data element measures past-year completion, rather than current participation, in order to ensure that the data collection captures completion of these training experiences.

Social Security. In paragraph (g)(41), we propose that a State report whether a youth is receiving Social Security Income (SSI) or Social Security Disability Insurance (SSDI), either directly or as a dependent beneficiary. Both SSI and SSDI provide financial assistance to eligible persons who are unable to work due to a disability (see sections 223 and 1611 of the Social Security Act). This data element measures youth access to one type of financial resource to help meet their living expenses and is a measure for Outcome 1 pertaining to financial self-sufficiency.

Educational Aid. In paragraph (g)(42), we propose that a State report whether a youth is receiving a scholarship, education or training voucher, grant, stipend, student loan, or other type of educational financial aid. Educational aid includes a Chafee education and training voucher provided under section 477(i) of the Social Security Act. The definition of a student loan is consistent with that under the Federal Family Education Loan Program (20 U.S.C.

1071). Many young people who are in school receive this type of assistance to help them gain an education. Such assistance can be an important financial resource, and is a measure for Outcome 1 pertaining to financial self-sufficiency.

Public Financial Assistance. In paragraph (g)(43), we propose that a State report whether a youth is receiving cash payments as part of the State's Temporary Assistance for Needy Families (TANF) program (title IV–A of the Social Security Act). This data element addresses the statutory requirement to develop outcome measures pertaining to avoidance of dependency (Outcome 1 on financial self-sufficiency). This element does not include other types of TANF assistance, such as child care subsidies or job training, because they do not involve cash payments or direct financial support to the youth.

Food Assistance. In paragraph (g)(44), we propose that a State report whether a youth is receiving food assistance. We consider food assistance to include assistance through the federally supported Food Stamp program that provides assistance to low-income people to buy groceries (authorized at 7 U.S.C. 2014) and the Women, Infants and Children (WIC) program, which is nutrition assistance specifically for pregnant women and women with young children.

Housing Assistance. In paragraph (g)(45), we propose that a State report whether a youth is receiving government-funded housing assistance, excluding CFCIP room and board payments.

Other Support. In paragraph (g)(46), we propose that a State report whether a youth is receiving any other ongoing financial resources or support not measured in the previous financial elements. For example, a youth may include financial support through a spouse, child support that the youth receives or funds from a legal settlement in this element. However, this element does not include child care subsidies, child support for a youth's child, or other financial help that does not benefit the youth directly in supporting himself or herself.

Highest Educational Certification Received. In paragraph (g)(47), we propose that a State report a youth's highest educational certification. This data element addresses the statutory requirement to develop measures related to educational attainment and is a measure of Outcome 2, improving young people's educational attainment. Receiving a high school diploma or GED is particularly important since the lack of that diploma makes it extremely difficult to transition successfully from foster care to self-sufficiency.

Current Enrollment and Attendance. In paragraph (g)(48), we propose that a State report whether a youth is enrolled in and attending school. A youth is still considered to be attending school if the youth remains enrolled while the school is currently on a break, such as Spring break, or out of session. Youth who are currently attending school or training may not yet have an educational degree, and may not have the time available to hold a full-time job. Some participants in the consultation process believed that this data element would be critical in assessing the employment and educational outcomes of youth.

Connection to Adult. In paragraph (g)(49), we propose that a State report whether a youth has a positive connection to an adult who can serve in a mentor or substitute parent capacity. The adult can be a relative, former foster parent, birth parent, or other older member of the community, but cannot be a peer such as a boyfriend, girlfriend, best friend, partner, or spouse. This definition also excludes current caseworkers. This data element, which relates to Outcome 3, increasing young people's positive connection with adults is not a statutory requirement. However, the measure is consistent with the statute's emphasis on mentoring as an important service for older youth in foster care. We developed this element in response to comments from many participants in the consultation process who believed that having a positive relationship with at least one adult was a critical component in youths'' success in living on their own.

Homelessness. In paragraph (g)(50), we propose that a State report whether a youth was homeless. This data element is relevant to Outcome 4 which pertains to reducing homelessness and is included in the statutory requirements. Many participants in the consultation process noted that it is important to measure how long youth were homeless, since there is a significant difference between not having a home for a few nights and being homeless for a good part of a year. However, we decided not to include a data element about the length of a young person's experience with homelessness in order to mitigate the data collection burden.

The homelessness data element and several following data elements (*i.e.*, substance abuse referral, incarceration, and children) refer to experiences over a long period of time rather than only the youth's current experience. This is because these elements pertain to events that may happen sporadically or briefly over any given period as opposed to other experiences, such as employment or education which often require a more long-term commitment. Also, a youth's brief experience with substance abuse, incarceration or homelessness often has a significant impact on his/her life and ability to be self-sufficient in a way that other experiences do not. We want to be sure to capture these events.

Specifically, we are proposing two different time frames for these elements, depending on whether the youth is in the baseline or follow-up population. For 17-year-olds in the baseline population we are interested in the youth's lifetime experience up to that point. For 19- and 21-year-olds in the follow-up population we are interested in the youth's experience in the past two years. We chose this approach so that we can capture the youths' entire experiences up to age 21, should they choose to answer these questions. This information will aid us in analyzing the outcomes data.

Substance Abuse Referral. In paragraph (g)(51), we propose that a State report whether a youth was referred or self-referred for alcohol or drug abuse assessment or counseling. This data element addresses the statutory requirement to develop outcome measures pertaining to high-risk behaviors, which is Outcome 5. To offset the potential limitations of self-reported data and privacy concerns, this data element requests information on referrals and not for the youth's actual alcohol and drug use.

Incarceration. In paragraph (g)(52), we propose that a State report whether a youth was arrested or incarcerated. This data element addresses the statutory requirement to develop outcome measures pertaining to incarceration and high-risk behaviors. The definition is broad to capture any type of incarceration or detention episode that the youth may experience in relation to an alleged crime.

Children. In paragraph (g)(53), we propose that a State report whether a youth gave birth to, or fathered, any children. This data element in combination with the subsequent element addresses the statutory requirement to develop outcome measures pertaining to nonmarital childbearing. We are looking at this element in relation to Outcome 5, reducing high-risk behaviors among young people.

Marriage at Child's Birth. In paragraph (g)(54), we propose that a State report whether a youth was married to the child's other biological parent at the time of the birth of any children reported in paragraph (g)(53).

Although "nonmarital childbearing" is identified in the statute, participants in the consultation process recommended that we measure whether a youth has any children separately from the youth's marital status. Participants objected to the child-bearing and marriage elements because they believed it was too intrusive to ask youth whether they were married at the time of their children's births. However, we decided to use the direct measure because we believe it more clearly addresses the statutory requirement.

Medicaid. In paragraph (g)(55) we propose that a State report whether a youth is participating in the State's Medicaid program. Although this data element is not a statutory requirement, it is consistent with the authority granted in the Foster Care Independence Act for States to offer Medicaid coverage to 18-, 19-, and 20-year old youth who age out of foster care. The element was developed in response to comments from participants in the consultation process that ACF should measure how many youth are able to benefit from Medicaid coverage. We are considering this element relevant to Outcome 6, improving young people's access to health insurance, although we acknowledge that some may view reliance on Medicaid as a measure of a youth's dependence on public assistance.

Other Health Insurance Coverage. In paragraph (g)(56), we propose that a State report whether a youth has health insurance other than Medicaid. This data element was recommended by many participants in the consultation process and also is relevant to Outcome 6, a youth's access to health insurance. Participants in the consultation process believed that health insurance is a critical factor in ensuring a youth's well-being and self-sufficiency.

Health Insurance Type. In paragraphs (g)(57) through (g)(60), we are proposing that the State capture the type of health insurance coverage that a youth has indicated in the previous element. Paragraph (g)(57) will capture whether the youth has insurance coverage for medical health only and paragraph (g)(58) will capture whether the youth has insurance coverage for both medical health and mental health. Paragraph (g)(59) will capture whether the youth has insurance coverage for both medical health and prescription drugs, and paragraph (g)(60) will capture whether the youth has insurance coverage for all three.

We are interested in determining to what extent a youth's major health insurance coverage needs are being met in evaluating their access to health care so we are asking that the youth distinguish between medical, mental health and prescription drug coverage. During the authorization of the Chafee program, Congress reviewed research and testimony that indicated that adolescents leaving foster care have significantly more health needs than other adolescents and that former foster youth were in particular need of mental health services (see House Rpt. 106–182, June 10, 1999). Given this information, we believe it important to capture the extent of a youth's access to health insurance. Participants in the consultation process were particularly interested in capturing whether youth had access to ongoing medication for maintenance of their physical or mental health, so we were mindful to ask separately about a youth's insurance for prescription drug coverage. We opted not to require States to report information on a youth's coverage for dental or vision benefits because these benefits are not typically covered in health insurance plans. We also are limiting this element to capture true health insurance and not plans that offer discounts on medical care or prescription drugs only, which cannot be classified as insurance.

Electronic Reporting. Finally, in paragraph (h), we propose that a State must submit NYTD data electronically to us in accordance with Appendix A of the proposed regulation and any other ACF specifications. We are not proposing to regulate the technical requirements for formatting or transmitting the NYTD data file. Instead, we will issue technical requirements and specifications through official ACF policy. We have learned through our experience with AFCARS that it is more prudent not to regulate the technical specifications for formatting and receiving data. As technology changes, we must be able to keep pace with the most current, practical and efficient transmission methods that will suit State and Federal needs.

We are particularly interested in exploring new technologies due to the enactment of the E-Government Act of 2002 (Public Law 107–347). This law focuses the Federal government on using improved internet-based technology to make it easier for State or local governments and citizens to interact with the Federal government. One internet-based technology that we are exploring for the NYTD is the use of Extensible Mark-Up Language (XML). XML is a text-based format that allows entities to describe, deliver and exchange data among a range of applications provided that the sender and receiver have agreed in advance on the data definitions. We believe that XML has several benefits to States and ACF, including:

- Enabling the integration and collation of any data and information irrespective of storage environment or document type;
- Facilitating data interchange independent of the operating system and hardware; and,
- Allowing new data elements to be added readily with minimal changes to the data file format.

We recognize that some States have already implemented the use of XML to transfer data, while others may have encountered some barriers to doing so. Therefore, we welcome comments from States on the potential use of XML for NYTD.

Section 1356.84 Sampling

This section describes the requirements and procedures for a State that opts to select a random sample of youth from the baseline population to follow over time.

In paragraph (a), we propose to allow States the option of taking a sample of 17-year-old youth who participated in the outcome data collection and following and collecting subsequent outcome information on that sample of youth at ages 19 and 21. As stated earlier, consultation participants requested this option to mitigate the burden of collecting information on older youth in the follow-up population, many of whom have left foster care.

In paragraph (b), we are proposing that States use simple random sampling procedures that are computer-generated, unless we approve another sampling procedure. A sample selected in a random manner, following standard sampling procedures, will be representative of all 19- and 21-year-olds in the follow-up population and will allow us to make inferences about that population based on the outcomes experienced by the youth in the sample. We are proposing that States use a random number generator to ensure that the sample is truly random and thus representative of the follow-up population. We believe that this provision will also help achieve uniformity in sampling procedures across the States.

We are proposing that the sampling universe consist of the total number of youth in the baseline population that participated in data collection at age 17. In practice, States may need to wait until the end of each reporting period in the fiscal year in which the State collects the outcomes data on the baseline population before determining the sampling universe and actually

selecting a sample. Once the State has chosen the youth who will comprise the sample at age 19, the State must keep track of these youth so that they can collect information from them at ages 19 and 21.

In paragraph (c) we outline the procedures for selecting the sample size. The statistical formula that is referred to in paragraph (c) and detailed in the proposed regulatory text at Appendix C of the proposed regulation is a standard formula used for making inferences about a population (*i.e.*, for drawing conclusions about the State's outcomes).

In paragraph (c)(1), we require States with a sampling frame of 5,000 youth or less to use the Finite Population Correction (FPC), because the sample size will constitute a large proportion of the population. The FPC is used when sampling from a small population (*i.e.*, where the sample is five percent or more of the population), and will reduce the sampling error at the given level of confidence from the value calculated with the standard sampling error formula. In paragraph (c)(2), we require States with a sampling frame of more than 5,000 youth to use the standard sample size formula without the FPC shown, because the adjustment is unnecessary.

Regardless of the size of the State's sampling universe, the State must increase the resulting number by 30 percent to allow for attrition. Allowing for 30 percent attrition reflects the experience of many studies involving hard-to-track populations. However, the sample size must not exceed the total number of youth in the baseline population who participated in data collection at age 17. ACF acknowledges that, depending on the number of 17-year-olds in foster care in the State, the resulting sample may not be lower than the entire baseline population. Based on our example in Table 1 that appears at the end of the preamble, the vast majority of States can benefit from using sampling. We estimate that the sample sizes for all States will range from approximately 79 to 341 youth.

We believe that this approach will yield a statistically valid sample of 19 and 21 year olds that receive or have received Independent Living Services. We would expect that at least 25 percent of the sample either currently receives Independent Living Services or received these services in the past. We are interested in public comments on whether we have achieved this outcome.

Section 1356.85 Compliance

In this section we define the standards ACF will use to determine a State's compliance with NYTD standards and our process for determining whether the State is in compliance with the standards.

File Submission Standards. In paragraph (a) we propose a set of file submission standards. These standards are minimal standards for timeliness, formatting and quality information that the State must achieve in order for us to process the State's data appropriately.

In paragraph (a)(1), we propose that the State must submit a data file according to the reporting periods and timeline (i.e., within 45 days of the end of each six-month reporting period) as described in 45 CFR 1356.83(a) to be in compliance with the NYTD.

In paragraph (a)(2), we propose that a State send us its data file in a format that meets our specifications. At this time we cannot outline the exact transmission method and/or formatting requirements for the NYTD data as explained in the discussion on 45 CFR 1356.83(h). However, we anticipate that we will design the Federal NYTD system so that we will be able to process files that are submitted according to our specifications only. This is to eliminate any inefficiencies and additional costs associated with building and maintaining a Federal system that can read and/or process multiple file formats.

In paragraph (a)(3), we propose that the State submit 100 percent error-free data for the basic demographic elements described in 45 CFR 1356.83(g)(1) through (g)(5), (g)(14) and (g)(36) for every youth in the reporting population. These elements describe the State, reporting period, youth's record number, youth's date of birth, youth's gender, and whether the youth is in foster care. Errors are defined in paragraph (c) of this section and in general refer to elements that have missing or blank data, data that are outside the acceptable response options, or illogical or inconsistent responses.

We are requiring that States have no errors at all for these seven elements because they contain information that is readily available to the State and are essential to our capacity to analyze the data and determine whether the State is in compliance with the remaining data standards. For example, the youth's date of birth and foster care status is information that all States collect on the youth whom they serve and would typically have in their information system. These elements also allow us to determine whether the youth should be surveyed for outcomes as part of the baseline population because the youth is 17 years old and in foster care and whether the State has achieved the foster care participation standard, which is discussed later in paragraph (b) below. Finally, based on our experience with AFCARS, we have found that problems in general elements such as these are often the result of minor errors at the State level that can be rectified easily. We therefore believe that a 100 percent compliance standard for these elements is appropriate.

Data Standards. In paragraph (b), we propose a set of data standards for the State to be in compliance with the NYTD requirements. These standards focus on the quality of the data that a State provides to us regarding a youth's demographic information, characteristics, services and outcomes. The data standards also are designed to ensure that a State is making significant efforts to collect and report outcome information for older youth.

In paragraph (b)(1), we propose to set a standard of 90 percent error-free data for the remaining data elements (45 CFR 1356.83(g)(6) through (g)(13), (g)(15) through (g)(35), and (g)(37) through (g)(60)). These elements are the remaining demographic, characteristics, services and outcome elements with the exception of those elements already described in paragraph (a). We are proposing a 90 percent error-free standard for these elements to ensure that we have an acceptable confidence level in the quality of information States submit to us.

We chose the 90 percent level for these remaining elements because it is consistent with the quality standard we have established for error data in AFCARS. Nonetheless, we considered setting different compliance levels for these elements so that select elements would have a lower error-free standard. Alternatively, we also considered allowing a certain number of elements (e.g., 10 percent, or 5, of the remaining 53 elements) to fail the 90 percent standard before we considered a State out of compliance. We ultimately rejected these approaches because we have been careful to propose only those NYTD elements that we believe will provide us with the most essential information to meet the requirements in law and our program goals. Since we value each of these elements of equal importance we were compelled to require States to provide the same level of quality information in each element.

In paragraph (b)(2), we are requiring that States ensure that all youth whom the State reported to ACF as participating in the outcomes data collection at age 17 (or all 17-year-olds who participated and are sampled to be part of the follow-up population) are reported for their outcomes again in the

State's subsequent data submissions when the youth turns 19- and 21-years old. A youth is considered to have participated if the State collected and reported some information on one of the outcomes-related elements (see 45 CFR 1356.83(g)(38) through (60)). We are calling this the outcomes universe standard.

We are not requiring that the State obtain full outcomes information on the 19- and 21-year-olds if the youth declines or is otherwise unavailable, but rather that the State send us a record on these older youth that provides us with some outcome information or why the State was unable to collect outcome information on the youth.

This compliance standard is necessary so that we can determine accurately whether the State is meeting the outcomes participation standards (see discussion on paragraph (b)(3) below). Unless we hold States accountable for either providing outcome information for each young person or indicating why the State was unable to get this information, we would create a loophole in calculating the outcomes participation standard. For example, in the absence of this standard if a State were initially to report complete or partial outcome information on 100 17-year-old youth but only provide us with outcomes information for the 50 youth who the State was able to collect some outcomes information on in the follow-up sample at age 19, the State would appear to have met the outcomes participation standards (at a rate of 100%) when in fact the State did not. This is because we could only calculate the participation standard based on the information provided in the present year if we did not look back to the State's data file from two years prior.

In paragraph (b)(3) we propose that the State must meet two youth participation rate standards for the outcomes data collection. Again, a youth is considered to have participated in the outcomes data collection if the State has provided a valid response (i.e., a response other than "declined" or "not applicable") for at least one of the outcome-related data elements in 45 CFR 1356.83(g)(38) through (g)(60).

The first youth participation rate standard, which we are calling the foster care youth participation rate, relates to the State collecting and reporting to ACF outcome information on 19- and 21-year-old youth in the follow-up population that are in foster care at the time of outcomes collection. We are requiring that States report full or partial outcome information on 80 percent of these youth in foster care as described in paragraph (b)(2)(i). The second youth participation rate standard, which we are calling the discharged youth participation rate, relates to the State collecting and reporting outcome information on 19- and 21-year-old youth in the follow-up population that are no longer in foster care at the time of outcomes collection. We are requiring that States report full or partial outcome information on 60 percent of these youth no longer in foster care as described in paragraph (b)(2)(ii). All youth who participated in the data collection at age 17 are considered part of the denominator and youth who participate at age 19 or 21 are part of the numerator in calculating the participation rates.

We are proposing a participation rate standard to encourage States to make significant efforts to track, locate, and obtain outcome information from youth. We acknowledge that the outcomes portion of the proposed NYTD is one of the more challenging for States to implement. Nonetheless, it is critical to our ability to understand how States are performing in operating independent living services programs and determine how youth who emancipate from foster care are faring.

We initially considered setting a standard based on the State making a successful contact with the youth rather than the youth's actual participation in the outcome survey. This approach seemed to work in favor of a State that was successful in tracking the youth and asking the youth to participate, but ultimately the youth chose not to respond to the survey. This approach would have given the State credit for its efforts to solicit the youth's participation. However, we were unsure how we could define or measure an appropriate contact in establishing a contact standard. In particular, we were uncertain how we could distinguish between States that made active and personal efforts to contact a youth by following up with individuals several times, versus those that engaged in more passive activities such as sending out mass e-mails or letters and awaiting a response.

After deciding on a participation rate, we were faced with how we could establish an appropriate standard. We chose to differentiate between youth in foster care versus those who have left foster care because we believed doing so would acknowledge the challenges in achieving youth's participation. For instance, we considered setting a single participation rate standard regardless of the youth's foster care status. However, we believe that those States with a larger number of older youth in foster care would perform better in relation to a single standard than those States where most youth leave foster care at age 18 because those youth still in foster care are easier to locate. We also considered setting a participation standard based solely on the youth's age, but believe that this approach would have the same flaw as a single standard. Setting a higher standard for youth in foster care versus those who have left foster care best takes into account the fact that the State has to expend more effort to locate youth who have left foster care and that these youth may be less interested in discussing how they are faring with an agency that no longer has active involvement in their day-to-day care. States will already know where youth in foster care are located and should be engaging them on an ongoing basis in developing their case plans and preparing the youth for emancipation, so we believe that States should be more accountable for obtaining a youth in foster care's participation in the outcomes survey.

Next, we considered the level for the participation rates. To determine the appropriate level, we reviewed the response rates for outcome surveys of data collection on former foster youth and on similar hard-to-serve populations. We learned from that review that some researchers and program evaluators had obtained close to 90 percent participation from foster and former foster youth or hard-to-serve populations, while others have achieved only a 50 to 70 percent response rate. Furthermore, these response rates were often obtained with the help of a highly skilled and dedicated team of locators and interviewers who did not have other child welfare responsibilities. Since we expect that many States will incorporate the responsibility to track youth and engage youth in responding to the outcome survey into the work of caseworkers and service providers, we wanted to set a reasonable expectation for compliance. In balancing these interests, we determined that a rate of 80 percent for youth in foster care and 60 percent for those youth no longer in foster care was appropriately in line with the survey research but also met our need to have some confidence in the outcome information that States report to us.

Finally, we considered establishing initial participation rates that would rise as time passed and States became more adept at locating and engaging youth in participating in the outcome survey. Although we do not propose to have participation rates that increase over time in this NPRM, we are interested in comments on such an approach.

In paragraph (b)(3)(iii), we clarify how we will apply the outcomes youth participation rates to those States that choose to sample. We propose to apply the participation rates to the minimum sample size rather than on all 19- and 21-year-old youth from whom State attempts to collect outcome data. We believe this is a reasonable approach since we do not want to penalize States that chose to sample when we are offering sampling as an alternative.

For example, a State has 1,500 youth in its total follow-up population of 21-year-olds, none of whom is in foster care. The State's sample size is 300 (for the sake of this example only). The State reports full or partial outcomes information on 250 21-year-olds and reports that the remaining 50 youth in the sample could not be located, had declined, or were incapacitated. The State has surpassed the participation rate standard for discharged youth because the State was successful in reporting full or partial outcome information on more than 60 percent of the youth no longer in foster care based on its sample size, rather than its total possible follow-up population.

A State can only be determined out of compliance on either of the participation rates if the State has met the compliance standard for the outcomes universe. As stated above in the discussion on paragraph (b)(2), this is because we can determine the participation rates accurately only when the State has provided us with information on every youth in the outcomes universe. We welcome comments on the participation rates chosen.

Errors. In paragraph (c), we define further the concept of data in error. Error data is both a factor in the file submission standards described in paragraph (a) and data standards described in paragraph (b) above.

In paragraph (c)(1), we identify blank or missing responses as one component of error data. The elements as described in 45 CFR 1356.83(g) indicate when blank responses are acceptable. Blank responses should not be confused with an acceptable response that indicates that a youth has declined to respond to an outcomes-related element.

In general, blank responses are never acceptable in the general elements in 45 CFR 1356.83(g)(1) through (g)(5), which are the State, report date, record number, date of birth and gender of the youth. Blank responses are acceptable in the data elements that are collected on the served population if the State is reporting the youth in the baseline or follow-up population only. Similarly, blank responses are acceptable in the data elements pertaining to the baseline and follow-up populations if the State is reporting the youth in the served population only (see Appendix A of the proposed regulation). Otherwise, a blank response indicates that the State has not provided a required response and will be subject to the compliance standards.

We want to note that for those readers who are familiar with the term "missing data" in AFCARS that the definition of blank or missing data is more limited here. AFCARS currently uses the term "missing data" to refer to blank responses and out-of-range responses (discussed below). We chose not to use a similar definition here to avoid the common confusion that only blank data is problematic.

In paragraph (c)(2), we identify out-of-range responses as another component of data in error. Out-of-range responses are those responses where the data provided does not match one of the valid responses or the response exceeds the possible range of responses. For example, we will consider that a State reporting that a youth has a date of birth that indicates that the youth is either 10 or 100 as out-of-range, as they both far exceed the credible ages of youth receiving services or being reported for outcomes. Also, if "yes," "no," or "not applicable," for a particular element are the only valid responses for an element, a response of "none" would be considered out-of-range.

In paragraph (c)(3) we identify inconsistent data as another component of data in error. Inconsistent data are those elements that fail internal consistency checks that are designed to evaluate the logical relationships between two or more elements within a single youth's record. We have chosen not to regulate the internal consistency checks so as to provide maximum flexibility to change them as needed. We will, however, notify States officially of the internal consistency checks.

We would like to note that based on our experience with AFCARS, we have found it useful to perform additional logical checks across the State's entire file, known as cross-file checks. For example, a State's data file that indicates that all youth for whom the State provided information in a reporting period are male, or all have the same date of birth, is likely to be erroneous. Although we have not proposed such cross-file checks as a factor of compliance in the NYTD, we welcome comments on incorporating cross-file checks into the error standard.

Review for compliance. In paragraph (d), we describe our process for reviewing a State's data file for compliance with the aforementioned standards. Although we anticipate having an automated system that will assess a State's compliance and quickly identify the errors in a State's data file, we are not confining ourselves to any particular system at this point.

In subparagraph (d)(1)(i), we propose that as long as the State is in compliance with the file submission standards, ACF will continue to assess the remaining file for compliance with the data standards. In subparagraph (d)(1)(ii), we propose to notify the State if the State has not met the file submission standards so that the State can submit corrected data (described further in the next section). As mentioned in the discussion on paragraph (a), a State must meet the file submission standards for us to make an accurate determination of compliance with the data standards. We will also notify the State if the State has not met the data standards.

In paragraph (d)(2), we propose that ACF may use other monitoring tools that are not explicitly mentioned in regulation to determine whether the State meets all requirements of the NYTD. For example, we may in the future wish to conduct onsite reviews to ensure proper data mapping or provide other technical assistance to ensure valid NYTD data. We have used this approach in AFCARS by conducting onsite assessment reviews of a State's process to submit AFCARS data. Through these assessment reviews we have found that States may be in compliance with the AFCARS data standards, but not in compliance with all the AFCARS requirements. For example, through the automated AFCARS, we cannot determine whether the State is submitting the entire or the correct reporting population. But through the assessment reviews, we have been able to provide States with technical assistance on how to meet all aspects of the AFCARS requirements. Regarding the AFCARS review process, we have often heard from States that the onsite activities are beneficial and provide the State with valuable technical assistance. Therefore, we want to reserve our ability to conduct other monitoring activities for NYTD.

Submitting corrected data and noncompliance. In paragraph (e), we outline a State's opportunity to correct any data that does not meet the compliance standard. We are proposing that States have an opportunity to correct their data file prior to our making a final determination on whether the State is in compliance with the standards. Providing this opportunity is consistent with our

current policy in implementing existing child and family services programs under titles IV–B and IV–E of the Social Security Act. The Department is encouraging continuous improvement in those programs by allowing noncompliant States a period of corrective action prior to taking penalties. We also have taken this approach in AFCARS even though we are not taking AFCARS penalties currently.

States have responded well to this strategy by refocusing their efforts on addressing the problems that affect noncompliance. The Department believes that this strategy of continuous improvement also is essential to promoting strong State-Federal partnerships while ensuring accountability in meeting Federal requirements. Finally, we anticipate making technical assistance available to States, to the extent possible, during the period of corrective action.

In paragraph (e)(1), we propose that a State will have until the end of the subsequent reporting period to submit a corrected data file. Expressed another way, a State will have four and a half months to correct their data file from the reporting period deadline in which the State's data did not meet the standards. We believe this period is sufficient because the type of problems that cause noncompliance typically do not require extensive and time-consuming efforts for States to correct. Also, we want to ensure that the information that States submit is recent and do not wish to encourage delays in providing the NYTD information.

The State need not develop an actual corrective action plan that outlines how the State plans to comply with the data standards, as is required in other program improvement efforts in child welfare (i.e., Child and Family Service Reviews and Title IV–E Eligibility Reviews). We believe that an actual plan is not necessary in this case as we anticipate that the Federal system will identify the errors that caused the State to be in noncompliance. Furthermore, because the period in which a State may submit data is relatively short, we believe that engaging in a process to develop an action plan and seek ACF approval will only reduce the amount of time the State has to make actual improvements that may bring the State into compliance with the standards.

In paragraph (e)(2) we propose to make a final determination that a State is out of compliance if a State's corrected data file does not meet the compliance standards. Similarly, we will determine that a State that chooses not to submit a corrected data file or submits a corrected data file late is out of compliance. This final determination of noncompliance means that the State will be subject to the penalties described in section 1356.86. Although States that submit their corrected data late will be subject to penalties we are interested in receiving this information. However, we believe that even late data will help shape the national picture of independent living services and youth outcomes.

Section 1356.86 Penalties for Noncompliance

In this section we propose a penalty structure for those States that are out of compliance with the NYTD standards following an opportunity to submit corrected data. We are proposing a penalty structure consistent with section 477(e)(2) of the Act, which requires the Secretary to assess a penalty against a State that fails to comply with the NYTD data requirements.

Definition of Federal funds subject to a penalty. In paragraph (a), we define which funds will be subject to a penalty for a State that ACF determines is out of compliance with the data standards.

We propose that the funds subject to a penalty are the State's annual allotment of CFCIP funds for the fiscal year that corresponds with the reporting period in which the State was required originally to submit the data. The State's total CFCIP funds include any allotted or re-allotted funds for the general CFCIP program and the education and training voucher program.

Section 477(e)(2) of the Act is ambiguous as to which fiscal year should be penalized due to a State's noncompliance. We chose to penalize the year in which the State's original submission was required because we believed it was simpler for States and ACF to estimate the potential penalty amount should the State not achieve compliance. The penalty amount actually will be withheld from the current fiscal year award of the general CFCIP and education and training voucher program funds.

For example, a State submits data for the second reporting period in FY 2008 by November 14, 2008 that does not meet the compliance standards. The State submits a corrected data file by the end of the subsequent reporting period, March 31, 2009 that does not meet the compliance standards either. ACF makes a final determination that the corrected data file is out of compliance with the data standards and notifies the State in April 2009. The funds that will be subject to a penalty are the State's allotment of FY 2008 funds. As can be seen from this example, the date that the State submits a corrected but non-compliant data file and the date of ACF's final determination that the State is not in compliance are irrelevant for the purposes of determining which Federal fiscal year of funds are subject to a penalty.

Assessed Penalty Amounts. In paragraph (b), we propose the specific penalty structure for States that fail the file submission and data standards. The statute at section 477(e)(3) of the Act requires that we implement a penalty structure that ranges between one and five percent of the State's annual CFCIP allotment. The law also requires us to take into account the degree of a State's noncompliance with the NYTD requirements. In meeting these requirements, we are proposing to base penalties on how a State performs with regard to the compliance standards for each six-month reporting period at penalty levels that reflect the relative importance of each compliance standard to the objectives of the NYTD. The discussion on paragraph (d) below goes into more detail on how we calculate a State's penalty amount.

In paragraph (b)(1), we propose a 2.5 percent penalty against the State's CFCIP annual funds for a State that does not meet the file submission standards per reporting period. We are assessing the largest possible penalty (for the reporting period) for not achieving any one of the file submission standards because we will not have useable information in a timely fashion for the reporting period. As noted in the previous section on compliance, if a State's data does not comply with file submission standards we will not process the State's data file any further to determine if the State is in compliance with the data standards. In large part, this is because we cannot trust the reliability of this data. We believe that assigning the largest possible penalty amount for not meeting the file submission standards is an appropriate incentive for States to submit data to us each reporting period.

We are proposing 2.5 percent because we are constrained by the statute to keep the penalty level between one and five percent of the State's annual CFCIP funds (see section 477(e)(2) of the Act). If the State fails to achieve the file submission standards for both reporting periods in a year, then the State will receive the maximum allowed penalty by law, five percent of their annual CFCIP allotment. We considered assessing the maximum five percent penalty for a State's failure to meet the file submission standards in one reporting period in the year because of

the importance that we attach to receiving useable data. However, we did not want to create a disincentive for States to submit information in the subsequent reporting period. For example, if we were to set the penalty at five percent for a State not achieving the file submission standard in the first reporting period, the State could opt to not submit data at all for the subsequent reporting period in the year with no consequences.

In paragraph (b)(2), we propose penalty amounts for a State's noncompliance with the data standards. Unlike the file submission standards, where failure on any one of the three standards for timely data, format and error-free information results in a single large penalty, we are proposing to assess penalties for the data standards for each specific compliance issue. This is in large part because some of the data standards are inapplicable in certain years, so assessing a single penalty amount for any failure to comply with a single data standard may not take into account the extent of noncompliance as is required by law. For example, if we were to have a single penalty for failure to comply with any data standard, a State that failed to comply with the error-free standard only in year two of implementation when we require only services information would be penalized for the same amount as a State that failed to comply with the error-free, foster care youth and discharged youth participation rate standards in year three of implementation.

In subparagraph (b)(2)(i), we propose a 1.25 percent penalty should a State fail to achieve the standard for error-free data in 45 CFR 1356.85(b)(1). Since States submit at least some of the data elements (i.e., demographics, characteristics and services) that are assessed for compliance with the error-free data standard every reporting period each year, a State that fails to comply with this standard may be assessed a penalty each reporting period.

We have assigned a significant penalty amount to the error-free compliance standard because we believe that quality data is very important. In many cases, a State will be out of compliance with this standard because of simple data entry errors. These errors can often be avoided or overcome by thoroughly training State staff who input data and closely adhering to the data element descriptions and response options proposed in this regulation. Moreover, we have provided States with 45 days between the end of the reporting period and the time when the data file is due to us to review their data for these errors. We believe, therefore, that a relatively high penalty is warranted to encourage States to take all necessary steps to provide quality data.

In paragraph (b)(2)(ii), we propose a 1.25 percent penalty for a State's noncompliance with the outcomes universe standard. As this compliance standard is only applicable in years when a State must submit data on the follow-up population of 19- and 21-year-olds, this penalty can be assessed only in those years.

We determined that a relatively high penalty amount for noncompliance with the outcomes universe standard was appropriate because it is assessed when a State has failed to provide a minimal amount of information on the 19- and 21-year-olds that we are requiring States to follow. As stated earlier in the discussion on this compliance standard (45 CFR 1356.85(b)(2)), we are simply requiring here that a State indicate whether the State is reporting full or partial outcome information on the youth, or why the State was unable to obtain the information. Since providing this information for all youth in the follow-up population requires a modicum of effort on the part of the State in comparison to the other outcome-related compliance standards, we believe a large penalty is warranted.

We are also limited by the statutory maximum penalty of five percent in proposing an appropriate penalty level for a State's failure to comply with the outcomes universe. Since a State may be out of compliance with the outcomes universe standard as well as the error-free standard (1.25 percent), the maximum penalty level we could choose in accordance with the law is 1.25 percent for the reporting period.

In paragraph (b)(2)(iii), we propose a 0.5 percent penalty for a State's noncompliance with the foster care youth participation rate. We could assess this penalty in any year in which the State is required to submit outcome data on the baseline population and may assess the penalty in a year in which the State is required to submit outcome data on the follow-up population, depending on whether there are 19- and 21-year-olds in foster care.

In paragraph (b)(2)(iv), we propose a 0.5 percent penalty for a State's noncompliance with the discharged youth participation rate. We can assess this penalty only in a year in which the State is required to submit outcome data on the follow-up population of 19- and 21-year-olds.

The penalties for noncompliance with either the discharged youth or foster care youth participation rates can only be assessed when the State meets the outcomes compliance standard, as explained in the discussion on 45 CFR 1356.85(b)(3).

We chose a 0.5 percent penalty, which we consider to be a relatively small penalty amount, for both participation rates for a number of reasons. First, we acknowledge that collecting outcome data directly from youth is the most challenging aspect of the proposed NYTD. Specifically, since collecting outcome data entails keeping track of youth over time (at least for the follow-up population) and soliciting the voluntary participation of the youth, we do not want to penalize States harshly given these challenges. At the same time we want to encourage States to collect outcomes information diligently, so we considered a modest penalty—rather than no penalty—appropriate.

Second, the amount of the penalty had to be small enough so that in combination with other potential penalties, the maximum penalty would not be exceeded for the Federal fiscal year (5 percent). Since a State could be in noncompliance with the error-free data (1.25 percent), foster care youth participation (0.5 percent) and discharged youth participation standards (0.5 percent), the maximum penalty for each reporting period for a State in noncompliance on all three would be 2.25 percent. We considered assigning penalty levels for the participation rates that would total 2.5 percent for the reporting period if a State was out of compliance with all the data standards, but chose not to avoid having penalty amounts that were less than 0.5 percent.

Third, we wanted to ensure that we did not create a disincentive for a State to obtain youth outcome information in light of the other penalties related to outcomes. That is, we wanted to ensure that the penalties for failing to meet the participation rates did not exceed the penalties for a State failing to submit data on the outcomes universe. For example, a State that does not report outcome information or why the State did not obtain outcome data for each youth in the follow-up population will receive a larger penalty (1.25 percent) per reporting period, than a State that provides information on all youth in the follow-up population but fails to achieve both participation rates (1.0 percent) in a reporting period.

We thought of proposing incentives to States to meet file submission and data standards in the form of a prospective penalty reduction for meeting certain data standards. This would further encourage States to comply with the data requirements. Since we understand

that collecting data in accordance with the proposed requirements will represent a challenge to States, we wanted to explore avenues to encourage States to comply. Although participants in the consultation process did not mention incentives specifically, our experience with AFCARS and other Child and Family Services Programs indicate that States are very interested in incentives that encourage desired behavior. Our initial thinking had been to propose a one percent prospective penalty reduction for a State that complies with all of the file submission and data standards in 45 CFR 1356.85 in a single fiscal year. We also contemplated proposing a prospective penalty reduction of 0.5 percent for a State that meets the file submission standards and the data submission standard for error-free data as defined in 45 CFR 1356.85(b)(1) in a single fiscal year. We ultimately decided that the penalty amounts are rather small given the size of the Chafee allotments. Furthermore, it would be too complex to implement an "incentive" that would also be rather small in amount at the same time we were implementing a complicated penalty scheme. However, we are interested in comments on the idea.

Calculation of the Penalty Amount. In paragraph (c), we explain how we will take into account the assessed penalties in determining a final amount of a State's penalty for noncompliance with the file submission or data standards. We propose to add all applicable assessed penalties in calculating the State's penalty amount for the reporting period. In the event that a State is in noncompliance in any reporting period in a Federal fiscal year and the total penalty amount would be less than one percent of the State's annual CFCIP funds, we propose to penalize the State one percent for the year.

We have set this minimum penalty of one percent for the year in accordance with the statutory minimum in section 477(e)(2) of the Act, which requires that the penalty structure range from one to five percent of the State's annual CFCIP funds. Since we have chosen to base penalties on a State's level of compliance for each reporting period, there may be situations in which the State's assessed penalty is less than one percent for the first reporting period. In that situation, we will determine that the State's penalty amount is one percent of the State's annual CFCIP for that first reporting period. Should the State also be in noncompliance with any standard in the subsequent reporting period in the Federal fiscal year, we will not penalize the State more than the actual calculated penalty amount for the fiscal year.

For example, a State is out of compliance with the discharged youth participation rate only in the first reporting period of a fiscal year, which carries a 0.5 percent penalty for the reporting period. ACF will notify the State that the State's penalty for the first reporting period is one percent given the minimum penalty exception. In the second reporting period of the same fiscal year, the State is out of compliance with the error-free data standard only, which carries a 1.25 percent penalty for the reporting period. ACF will notify the State that the State's penalty is 0.75 percent for the second reporting period. This is because the State's total assessed penalty for the fiscal year is 1.75 percent, of which the State's allocation has already been reduced by one percent for the first reporting period. If the same State was in compliance with all standards in the second reporting period, the one percent minimum that the State's allocation was reduced by in the first reporting period would stand.

Notification of penalty amount. In paragraph (d), we propose to notify States officially of our final determination that the State is out of compliance with the file submission or data standards following an opportunity for corrective action. This notification will contain the calculated penalty amount for noncompliance.

Interest. In paragraph (e), we propose that a State be liable for applicable interest on the amount of funds we penalize, in accordance with the regulations at 45 CFR 30.13. This proposal to collect interest is consistent with Department-wide regulations and policy on collecting on debts owed to the Federal government.

Appeals. In paragraph (f), we propose to provide the State with an opportunity to appeal a final determination that the State is out of compliance and any resulting penalties to the HHS Departmental Appeals Board (DAB). Since the law does not require any unique appeal rights or time frames regarding NYTD requirements, all appeals must follow the DAB regulations in 45 CFR part 16.

Appendix A to Part 1356

The table in Appendix A of the proposed regulation outlines all of the data elements described in 45 CFR 1356.83(g) and the response options. The numbering of data elements in Appendix A corresponds with the paragraph numbers of each data element identified in section 1356.83(g). As is discussed in 45 CFR 1356.83(h), ACF will provide details of the acceptable format requirements at a later date.

Appendix B to Part 1356

The table in Appendix B of the proposed regulation presents the questions the State must use in collecting outcome information on youth in the baseline and follow-up populations. The table shows the data element (reflecting the element name in Appendix A of the proposed regulation), the question to elicit the information, and the definition of the data element and terms used in the question. The table is divided into two parts; the first part, subtitled "Information to Collect from All Youth Surveyed for Outcomes, Whether in Foster Care or Not," contains questions for all youth in the baseline and follow-up populations. The second part, subtitled "Additional Information to Collect from Youth Out Of Foster Care," contains questions that are not applicable for youth still in foster care, and should only be asked of young people in the follow-up population who are no longer in foster care.

As was discussed earlier in the discussion on the data elements in 45 CFR 1356.83(g), there are several questions that are phrased in two different ways; one way to elicit responses from 17-year-olds on their lifetime experiences, and another to elicit responses from 19- and 21-year-olds, on their experiences in the past two years. The State may find it easier to design several different surveys that are specific to the youth's age and foster care status that contain the applicable questions only.

Finally, we designed the questions to be understood easily by both the interviewer and/or the youth interviewed. Many of these questions were pilot tested with both caseworkers and youth. In the tests, the interviews were brief and the young people responded favorably to the questions.

Appendix C to Part 1356

Appendix C of the proposed regulation presents the formulas the State must use in calculating the number of youth to select into a random sample for the purposes of collecting information from the follow-up population. These formulas are standard and commonly used for this purpose. Two formulas are presented, one for a State where the number of interviewed 17-year-olds is 5,000 or less and one for a State where the number of interviewed 17-year-olds is more than 5,000. The formula for the smaller population requires the Finite Population Correction (FPC) to reduce the sampling

error. The formula for the larger population does not require the FPC because the sampling error does not need to be reduced.

For example, a large State has approximately 6,500 17-year-old youth in foster care according to their AFCARS data on September 30, 2003. This State will not need to apply the FPC in determining their sample size because they have a sampling frame of over 5,000 youth. The State's sample size is 339. Alternatively, a State with a smaller youth population of 1,200 17-year-olds in foster care will use the FPC to determine their sample size, because the State has a sampling frame of less than 5,000 youth. This State's sample size is 288.

V. Charts and Tables

CHART 1.—OUTCOMES AND RELEVANT DATA ELEMENTS

Outcome measure	Relevant data elements
Outcome 1: Increase young people's financial self-sufficiency	Current full-time employment, Current part-time employment, Employment-related skills, Social Security, Education financial assistance, Public financial assistance, Food assistance, Housing assistance, Other support.
Outcome 2: Improve young people's educational (academic or vocational) attainment.	Highest educational certification received, Current enrollment/attendance.
Outcome 3: Increase young people's positive connections with adults	Connection to adult.
Outcome 4: Reduce homelessness among young people	Homelessness.
Outcome 5: Reduce high-risk behavior among young people	Substance abuse referral, Incarceration, Children, Marriage at child's birth.
Outcome 6: Improve young people's access to health insurance	Medicaid, Other health insurance coverage, Health insurance type.

TABLE 1.—EXAMPLE OF STATE SAMPLE SIZES

State	Number of 17-year-olds	Minimum sample size
Alabama	466	223
Alaska	96	92
Arizona	581	241
Arkansas	266	175
California	7,678	341
Colorado	787	263
Connecticut	501	229
Delaware	79	79
Dist of Col	157	130
Florida	1,465	298
Georgia	833	267
Hawaii	181	142
Idaho	103	97
Illinois	1,189	288
Indiana	573	240
Iowa	669	251
Kansas	503	230
Kentucky	717	256
Louisiana	380	206
Maine	238	165
Maryland	794	263
Massachusetts	1,237	290
Michigan	1,725	305
Minnesota	813	265
Mississippi	179	141
Missouri	843	267
Montana	117	107
Nebraska	755	260
Nevada	159	131
New Hampshire	104	98
New Jersey	789	263
New Mexico	111	103
New York	2,824	322
North Carolina	640	248
North Dakota	122	110
Ohio	1,608	302
Oklahoma	476	225
Oregon	466	223
Pennsylvania	2,063	312
Rhode Island	269	176
South Carolina	420	215
South Dakota	92	90
Tennessee	1,107	284
Texas	1,411	296
Utah	224	160
Vermont	198	149
Virginia	835	267
Washington	457	222
West Virginia	439	218
Wisconsin	590	242
Wyoming	153	128
Puerto Rico	329	194
Totals	39,811	11,088

This table shows potential sample sizes based on the number of 17-year-olds in foster care. We calculated the total number of 17-year-olds from AFCARS data by summing: (1) the number of 17-year-olds who were in foster care as of September 30, 2004; and, (2) the number of 17-year-olds who had exited foster care during the previous six months.

CHART 2.—OVERVIEW OF THE PROPOSED NYTD

	Year 1	Year 2	Year 3	Year 4	Year 5
A State will report semi-annually on all youth receiving independent living services (the served population) and the demographic characteristics of those youth. This includes youth in foster care and those who have aged out of foster care and are still receiving services	X	X	X	X	X
In Year One and every three years, the State will collect and report on the outcomes of all 17 year olds in foster care who complete a survey (the baseline population)	X			X	
In Year Four, the State will collect outcomes on a new cohort of 17 year olds in foster care					
In Year Three, the State will again collect and report on the outcomes of the first cohort of youth from Year One at age 19 (the follow up population)			X		
In Year Six (not shown) the State will collect and report on the outcomes for the second cohort of 17 year old youth who are 19					
In Year Five, the State will collect and report on the outcomes of the Year One cohort of 17 year old youth who are now 21 years old (the follow up population)					X
In Year Eight (not shown) the State will collect and report outcomes data for the second cohort of youth who are now 21 years old					

VI. IMPACT ANALYSIS

Executive Order 12866

Executive Order 12866 requires that regulations be drafted to ensure that they are consistent with the priorities and principles set forth in the Executive Order. The Department has determined that this proposed rule is consistent with these priorities and principles. In particular, we have determined that a regulation is the best and most cost-effective way to implement the statutory mandate for a data collection system to track the independent living services States provide to youth and develop outcome measures that may be used to assess State performance.

We have determined that the costs to the States as a result of this rule will be minor. Many of the costs that States incur as a result of NYTD may be eligible for Federal financial participation at the 50% rate depending on whether the costs to develop and implement the NYTD are allowable costs under a State's approved planning document for SACWIS. States may also use their allotment of Federal Chafee funds to implement NYTD. Additional costs to the Federal government to develop and implement a system to collect NYTD data are expected to be minimal.

Regulatory Flexibility Analysis

The Secretary certifies under 5 U.S.C. 605(b), as enacted by the Regulatory Flexibility Act (Pub. L. 96–354), that this rule will not result in a significant impact on a substantial number of small entities. This proposed rule does not affect small entities because it is applicable only to State agencies that administer child and family services programs and the title IV–E CFCIP program.

Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act (Pub. L. 104–4) requires agencies to prepare an assessment of anticipated costs and benefits before proposing any rule that may result in an annual expenditure by State, local, and tribal governments, in the aggregate, or by the private sector, of $100,000,000 or more (adjusted annually for inflation). This proposed rule does not impose any mandates on State, local or tribal governments, or the private sector that will result in an annual expenditure of $100,000,000 or more.

Paperwork Reduction Act

Under the Paperwork Reduction Act (Pub. L. 104–13), all Departments are required to submit to OMB for review and approval any reporting or record-keeping requirements inherent in a proposed or final rule. This NPRM contains information collection requirements in sections 1356.82 and 1356.83 that the Department has submitted to OMB for its review. The respondents to the information collection in this proposed rule are State agencies.

The Department requires this collection of information to address the data collection requirements of the John H. Chafee Foster Care Independence Program. Specifically, the law requires the Secretary to track youths' demographic characteristics and independent living services provided and to develop outcome measures that can be used to assess the performance of States in operating independent living programs.

The following are estimates:

Instruments:	Number of respondents	Number of responses per respondent	Average burden per response	Total burden hours
1. NYTD	52	2	1,580 hours	164,360
2. NYTD Youth Outcome Survey	23,903	1	0.25 hours	5,976
TOTAL				170,336

This information collection will be comprised of:

(1) The State's submission to ACF of two-semi-annual data files that contain information on all data elements regarding youth services, demographics, characteristics and outcomes. A State will collect this information on an ongoing basis. The total annual burden will vary from year to year; the burden will be lower in years in which States do not have to collect information on youth outcomes. Years in which a State must expend effort to track or maintain contacts with youth as they age from 17 years old through 21 will have the highest total burden hours; and,

(2) A survey composed of up to 19 questions on youth outcomes (that correspond with 19 data elements in the first instrument) to be completed by youth in the baseline and/or follow-up populations.

Determining Burden Estimates for the NYTD

Using AFCARS data and interviews with States, we estimated that the average number of youth per State who receive independent living services annually is 2,518. This figure is based on estimates that include only children 14 and above (because it was determined unlikely that younger children would be receiving independent living services); an estimate that 50% of children ages 14–15 will be served based on interviews with States; and an estimate that 90% of youth in foster care ages 16 and higher will be served, again based on interviews with States. This number also includes estimates of the number of youth formerly in a State's foster care system who received or are receiving independent living services as well as eligible youth who were never in the State's foster care system (these youth may have been in foster care in another State).

Based on these and other sources, we estimate that the average amount of staff time per youth to collect and record services, demographic and characteristics data will be 30 minutes per youth per reporting period. This estimate is based on a pilot test, and on experience with AFCARS and other data systems.

States will collect and report outcomes information on the youth at three specific intervals: on or about the youth's 17th birthday while the youth is in foster care; on or about the youth's 19th birthday; and again on or about the youth's 21st birthday. The data collection for 19 and 21-year-olds will include only those youth who participated in data collection at age 17 while in foster care, even if they are no longer in the State's foster care system or receiving independent living services at age 19 and 21.

We used AFCARS data to determine that there will be, on average, approximately 766 youth annually per State in the baseline population of 17-year-olds in foster care. We expect it will take a State worker approximately one quarter hour to collect and report outcome data. We expect that States will collect and report outcome data on approximately 80% of the 19- and 21-

year-olds in the follow-up population (on average 613 youth per State).

In order to determine the total burden hours per respondent, we include the number of hours it will take States to track the whereabouts of these youth at age 19. We do not build into the calculation the burden of tracking the 17-year-olds because we expect States to know the whereabouts of the 17-year-olds since they will still be in foster care. We estimate it will take approximately a total of two hours of staff time per youth to keep track of the youth's whereabouts over the two-year period.

In order to determine the average State burden (hours) per response we added the number of hours it would take for the State to collect and report on each youth expected to receive services in each of the first three years, the number of hours it would take for the State to survey each youth for outcomes over the same three year period and the number of hours it would take for the State to track the whereabouts of the young people for outcomes during the same time-period. We averaged the result, 4,563 hours, over the three years to conclude an estimated average burden per response of 1,521 hours.

Determining burden estimates for the NYTD Youth Outcomes Survey

Using AFCARS information and interviews with States, we estimated there will be approximately 766 17-year-olds in the baseline population in each State who will respond to the NYTD Youth Outcomes Survey. We expect States will survey approximately 80% of these youth again at age 19 (approximately 613 youth per State). There are a total of 19 questions on the survey that elicit information from a youth on his/her outcomes. All of the information needed to complete the survey is readily accessible to the youth, because it primarily covers the youth's own experiences and current situation. For the most part these questions have simple yes or no answers. A State may present the survey to youth in several different ways *i.e.*; via the internet, by phone, via the mail or in person at the youth's home or the agency's offices. We estimate however it is presented, it will take no more than one quarter hour to complete the survey based on the number of questions involved and the accessibility to the youth of the answers. We estimate the total number of respondents in Year 1 will be 39,832 (766×52). We estimate the total burden hours will be 9,958 in Year 1 when youth in the baseline population complete the survey ($39,832 \times 0.25$). We estimate the total number of respondents in Year 3 will be 31,876 (613×52) when 19 year-old members of the follow-up population complete the survey. We estimate the total burden hours will be 7,969 in Year 3. This is an over-estimate given the fact that many States may choose to survey a sample of 19-year-olds. These States will have fewer young people who must complete the survey at age 19.

NYTD Three-Year Timeline

Year One—A State will report on all youth receiving independent living services and the demographic characteristics of those youth. All 17-year-olds in foster care (the baseline population) who opt to will complete the NTYD Youth Outcome Survey. A State will collect and report the outcomes data from the survey for the baseline population.

Year Two—A State will report on all youth receiving independent living services and the demographic characteristics of those youth. There will not be any information collected or reported on outcomes in this year.

Year Three—A State will report on all youth receiving independent living services and the demographic characteristics of those youth. Youth in the State who were in the cohort of 17-year-olds who are now 19 years old (the follow-up population) will complete the NTYD Youth Outcomes Survey. A State will collect and report the outcomes data.

The following table summarizes the phase-in period and the reporting that will be required in each fiscal year of the first five years that NYTD is operational:

Required reporting	All youth receiving services and their characteristics	17-year-olds in foster care for outcomes	19-year-olds for outcomes	21-year-olds for outcomes
Year 1	A. X	B. X		
Year 2	C. X			
Year 3	D. X		E. X	
Year 4	F. X	G. X		
Year 5	H. X			I. X

The Administration for Children and Families is particularly interested in comments by the public on this proposed collection of information in the following areas:

- Evaluating whether the proposed collection(s) is [are] necessary for the proper performance of the functions of ACF, including whether the information will have practical utility;
- Evaluating the accuracy of the ACF's estimate of the burden of the proposed collection[s] of information, including the validity of the methodology and assumptions used;
- Enhancing the quality, usefulness, and clarity of the information to be collected; and
- Minimizing the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technology, *e.g.*, permitting electronic submission of responses.
- Estimates or examples of actual State costs for the collection of information, particularly as it relates to conducting youth outcome surveys, tracking youth who will and have left foster care, and collecting data on services.

OMB is required to make a decision concerning the collection of information contained in these proposed regulations between 30 and 60 days after publication of this document in the **Federal Register**. Therefore, a comment is best assured of having its full effect if OMB receives it within 30 days of publication. This does not affect the deadline for the public to comment to the Department on the proposed regulations. Written comments to OMB for the proposed information collection should be sent directly to the following: Office of Management and Budget, Paperwork Reduction Project, 725 17th Street, NW., Washington DC 20503, Attention: Desk Officer for the Administration for Children and Families.

Congressional Review

This regulation is not a major rule as defined in 5 U.S.C. Chapter 8.

Assessment of Federal Regulations on Policies and Families

Section 654 of the Treasury and General Government Appropriations Act of 1999 requires Federal agencies to determine whether a proposed policy or regulation may affect family well-being. If the agency's determination is affirmative, then the agency must prepare an impact assessment addressing criteria specified in the law. These proposed regulations will have an impact on family well-being as defined in the legislation by tracking independent living services provided to youth, developing outcome measures, and assessing a State's performance in operating an independent living program. We expect that States will be able to improve their programs for youth in foster care based on an understanding of how their services affect youth outcomes through this data, which will lead to positive influences on the behavior and personal responsibility of youth.

Executive Order 13132

Executive Order 13132 on Federalism requires that Federal agencies consult with State and local government officials in the development of regulatory policies with Federalism implications. Consistent with Executive Order 13132, we specifically solicit comment from State and local government officials on this proposed rule.

List of Subjects in 45 CFR Part 1356

Adoption and Foster Care.

(Catalog of Federal Domestic Assistance Program Number 93,658, Foster Care Maintenance)

Dated: October 25, 2005.

Wade F. Horn,

Assistant Secretary for Children and Families.

Approved: March 24, 2006.

Michael O. Leavitt,

Secretary.

Editorial Note: This document was received in the Office of the Federal Register June 30, 2006.

For the reasons set forth in the preamble, 45 CFR part 1356 is proposed to be amended as follows:

PART 1356—REQUIREMENTS APPLICABLE TO TITLE IV-E

1. The authority citation for part 1356 continues to read as follows:

Authority: 42 U.S.C. 620 *et seq.*, 42 U.S.C. 670 *et seq.*; 42 U.S.C. 1302.

2. Sections 1356.80 through 1356.86 and Appendix A to Part 1356 are added to read as follows:

§ 1356.80 Scope of the National Youth in Transition Database.

The requirements of the National Youth in Transition Database (NYTD) §§ 1356.81 through 1356.86 of this part apply to the agency in any State, the District of Columbia, or Territory, that administers the Chafee Foster Care Independence Program (CFCIP) under section 477 of the Social Security Act (the Act).

§ 1356.81 Reporting population.

The reporting population is comprised of all youth in the following categories:

(a) *Served population:* Each youth who received independent living services paid for or provided by the State agency during the reporting period.

(b) *Baseline population:* Each youth who is in foster care as defined in section 1355.20 of this part and reaches his or her 17th birthday during a specified Federal fiscal year.

(c) *Follow-up population:* Each youth who reaches his or her 19th or 21st birthday in a Federal fiscal year and had participated in data collection as part of the baseline population, as specified in § 1356.82(a)(2) of this part. A youth has participated in the outcomes data collection if the State agency reports to ACF a valid response (*i.e.*, a response option other than "declined" and "not applicable") to any of the outcomes-related elements described in § 1356.83(g)(38) through (g)(60) of this part.

§ 1356.82 Data Collection Requirements.

(a) The State agency must collect applicable information as specified in section 1356.83 of this part on the reporting population defined in section 1356.81 of this part in accordance with the following:

(1) For each youth in the served population, the State agency must collect information for the data elements specified in § 1356.83(b) and (c) of this part on an ongoing basis, for as long as the youth receives services.

(2) For each youth in the baseline population, the State agency must collect information for the data elements specified in § 1356.83(b) and (d) of this part. The State agency must collect this information on a new baseline population every three years.

(i) For each youth in foster care who turns age 17 in the first Federal fiscal year of implementation, the State agency must collect this information within 45 days following the youth's 17th birthday, but not before that birthday.

(ii) Every third Federal fiscal year thereafter, the State agency must collect this information on each youth in foster care who turns age 17 during the year within 45 days following the youth's 17th birthday, but not before that birthday.

(iii) The State agency must collect this information using the survey questions in Appendix B of this part entitled "Information to collect from all youth surveyed for outcomes, whether in foster care or not."

(3) For each youth in the follow-up population, the State agency must collect information on the data elements specified in § 1356.83(b) and (e) of this part within the reporting period of the youth's 19th and 21st birthday. The State agency must collect the information using the appropriate survey questions in Appendix B of this part, depending upon whether the youth is in foster care.

(b) The State agency may select a sample of the 17-year-olds in the baseline population to follow over time consistent with the sampling requirements described in § 1356.84 of this part to satisfy the data collection requirements in paragraph (a)(3) of this section for the follow-up population.

§ 1356.83 Reporting Requirements and Data Elements.

(a) *Reporting periods and deadlines.* The six-month reporting periods are from October 1 to March 31 and April 1 to September 30. The State agency must submit data files that include the information specified in this section to ACF on a semi-annual basis, within 45 days of the end of the reporting period (*i.e.*, by May 15 and November 14).

(b) *Data elements for all youth.* The State agency must report the data elements described in paragraphs (g)(1) through (g)(13) of this section for each youth in the entire reporting population defined in § 1356.81 of this part.

(c) *Data elements for served youth.* The State agency must report the data elements described in paragraphs (g)(14) through (g)(33) of this section for each youth in the served population defined in § 1356.81(a) of this part.

(d) *Data elements for baseline youth.* The State agency must report the data elements described in paragraphs (g)(34) through (g)(60) of this section for each youth in the baseline population defined in § 1356.81(b) of this part.

(e) *Data elements for follow-up youth.* The State agency must report the data elements described in paragraphs (g)(34) through (g)(60) of this section for each

youth in the follow-up population defined in § 1356.81(c) of this part or alternatively, for each youth selected in accordance with the sampling procedures in § 1356.84 of this part.

(f) *Single youth record.* The State agency must report all applicable data elements for a youth in one record per reporting period.

(g) *Data element descriptions.* For each element described in paragraphs (1) through (60), the State agency must indicate the applicable response as instructed.

(1) *State.* State means the State responsible for reporting on the youth. Indicate the first two digits of the State's Federal Information Processing Standard (FIPS) code for the State submitting the report to ACF.

(2) *Report date.* The report date corresponds with the end of the current reporting period. Indicate the last month and the year of the reporting period.

(3) *Record number.* The record number is the encrypted, unique person identification number for the youth. The State agency must apply and retain the same encryption routine or method for the person identification number across all reporting periods. The record number must be encrypted in accordance with ACF standards. Indicate the record number for the youth.

(i) If the youth is in foster care during the current reporting period or was in foster care under the placement and care responsibility of the State agency during a previous reporting period, the State agency must use and report to the NYTD the same person identification number for the youth the State agency reports to AFCARS. The person identification number must remain the same for the youth wherever the youth is living and in any subsequent NYTD reports.

(ii) If the youth was never in the State's foster care system, the State agency must assign a person identification number that must remain the same for the youth wherever the youth is living and in any subsequent reports to NYTD.

(4) *Date of birth.* The youth's date of birth. Indicate the year, month, and day of the youth's birth.

(5) *Sex.* The youth's gender. Indicate whether the youth is male or female as appropriate.

(6) *Race: American Indian or Alaska Native.* In general, a youth's race is determined by the youth or the youth's parent(s). A youth has origins in any of the original peoples of North or South America (including Central America), and maintains tribal affiliation or community attachment. Indicate whether this racial category applies for the youth, with a "yes" or "no."

(7) *Race: Asian.* In general, a youth's race is determined by the youth or the youth's parent(s). A youth has origins in any of the original peoples of the Far East, Southeast Asia, or the Indian subcontinent including, for example, Cambodia, China, India, Japan, Korea, Malaysia, Pakistan, the Philippine Islands, Thailand, and Vietnam. Indicate whether this racial category applies for the youth, with a "yes" or "no."

(8) *Race: Black or African American.* In general, a youth's race is determined by the youth or the youth's parent(s). A youth has origins in any of the black racial groups of Africa. Indicate whether this racial category applies for the youth, with a "yes" or "no."

(9) *Race: Native Hawaiian or Other Pacific Islander.* In general, a youth's race is determined by the youth or the youth's parent(s). A youth has origins in any of the original peoples of Hawaii, Guam, Samoa, or other Pacific Islands. Indicate whether this racial category applies for the youth, with a "yes" or "no."

(10) *Race: White.* In general, a youth's race is determined by the youth or the youth's parent(s). A youth has origins in any of the original peoples of Europe, the Middle East, or North Africa. Indicate whether this racial category applies for the youth, with a "yes" or "no."

(11) *Race: Unknown/Unable to Determine.* The race, or at least one race of the youth is unknown, or the youth or parent is unable to communicate (due to age, disability or abandonment) the youth's race. Indicate whether this category applies for the youth, with a "yes" or "no."

(12) *Race: Declined.* The youth or parent has declined to identify a race. Indicate whether this category applies for the youth, with a "yes" or "no".

(13) *Hispanic or Latino Ethnicity.* In general, a youth's ethnicity is determined by the youth or the youth's parent(s). A youth is of Hispanic or Latino ethnicity if the youth is a person of Cuban, Mexican, Puerto Rican, South or Central American, or other Spanish culture or origin, regardless of race. Indicate which category applies, with "yes," "no," "unknown/unable to determine," or "declined," as appropriate. "Unknown/unable to determine" means that the youth or parent is unable to communicate (due to age, disability or abandonment) the youth's ethnicity. "Declined" means that the youth or parent has declined to identify the youth's ethnicity.

(14) *Foster care status—services.* The youth receiving services is or was in foster care during the reporting period if the youth is or was in the placement and care responsibility of the State title IV-B/IV-E agency in accordance with the definition of foster care in section 1355.20 of this part. Indicate whether the youth is or was in foster care at any point during the reporting period, with a "yes" or "no" as appropriate. If the youth is not in the served population this element must be left blank.

(15) *Local agency.* The local agency is the county or equivalent jurisdictional unit that has primary responsibility for the youth's placement and care if the youth is in foster care, or that has primary responsibility for providing services to the youth if the youth is not in foster care. Indicate the five-digit Federal Information Processing Standard (FIPS) code(s) that corresponds to the identity of the county or equivalent unit jurisdiction(s) that meets these criteria during the reporting period. If a youth who is not in foster care is provided services by a centralized unit only, rather than a county agency, indicate "centralized unit." If the youth is not in the served population this element must be left blank.

(16) *Tribal membership.* The youth is a tribal member if the youth is enrolled in or eligible for membership in a federally recognized tribe. The term "federally recognized tribe," means any Indian tribe, band, nation, or other organized group or community of Indians, including any Alaska Native village or regional or village corporation as defined in or established pursuant to the Alaska Native Claims Settlement Act (43 U.S.C 1601 *et seq.*), that is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians pursuant to the Indian Self-Determination and Educational Assistance Act (25 U.S.C. 450 *et seq.*). Indicate "yes" or "no" as appropriate. If the youth is not in the served population this element must be left blank.

(17) *Adjudicated delinquent.* Adjudicated delinquent means that a State or Federal court of competent jurisdiction has adjudicated a youth as a delinquent. Indicate "yes," or "no" as appropriate. If the youth is not in the served population this element must be left blank.

(18) *Educational level.* Educational level means the highest educational level completed by the youth. For example, for a youth currently in 11th grade, "10th grade" is the highest educational level completed. Post-

secondary education or training refers to any other post-secondary education or training, other than an education pursued at a college or university. College refers to completing at least a semester of study at a college or university. Indicate the highest educational level completed by the youth during the reporting period. If the youth is not in the served population this element must be left blank.

(19) *Special education.* The term "special education," means specifically designed instruction, at no cost to parents, to meet the unique needs of a child with a disability. Indicate whether the youth has received special education instruction during the reporting period, with a "yes" or "no," as appropriate. If the youth is not in the served population this element must be left blank.

(20) *Independent living needs assessment.* An independent living needs assessment is a systematic procedure to identify a youth's basic skills, emotional and social capabilities, strengths, and weaknesses to match the youth with appropriate independent living services. An independent living needs assessment may address knowledge of basic living skills, job readiness, money management abilities, decision-making skills, goal setting, task completion, and transitional living needs. Indicate whether the youth received an independent living needs assessment during the reporting period, with a "yes" or "no", as appropriate. If the youth is not in the served population this element must be left blank.

(21) *Academic support.* Academic supports are services designed to help a youth complete high school or obtain a General Equivalency Degree (GED). Such services include the following: academic counseling; preparation for a GED, including assistance in applying for or studying for a GED exam; tutoring; help with homework; study skills training; literacy training; and help accessing educational resources. Academic support does not include a youth's general attendance in high school. Indicate whether the youth received academic supports during the reporting period with a "yes" or "no" as appropriate. If the youth is not in the served population this element must be left blank.

(22) *Post-secondary educational support.* Post-secondary educational support are services designed to help a youth enter or complete college, and include the following: classes for test preparation, such as the Scholastic Aptitude Test (SAT); counseling about college; information about financial aid and scholarships; help completing college or loan applications; or tutoring while in college. Indicate whether the youth received post-secondary educational support during the reporting period with a "yes" or "no" as appropriate. If the youth is not in the served population this element must be left blank.

(23) *Career preparation.* Career preparation services focus on developing a youth's ability to find, apply for, and retain appropriate employment. Career preparation includes the following types of instruction and support services: Vocational and career assessment, including career exploration and planning, guidance in setting and assessing vocational and career interests and skills, and help in matching interests and abilities with vocational goals; job seeking and job placement support, including identifying potential employers, writing resumes, completing job applications, developing interview skills, job shadowing, receiving job referrals, using career resource libraries, understanding employee benefits coverage, and securing work permits; retention support, including job coaching; learning how to work with employers and other employees; understanding workplace values such as timeliness and appearance; and understanding authority and customer relationships. Indicate whether the youth received career preparation services during the reporting period with a "yes" or "no" as appropriate. If the youth is not in the served population this element must be left blank.

(24) *Employment programs or vocational training.* Employment programs and vocational training are designed to build a youth's skills for a specific trade, vocation, or career through classes or on-site training. Employment programs include a youth's participation in an apprenticeship, internship, or summer employment program and do not include summer or after-school jobs secured by the youth alone. Vocational training includes a youth's participation in vocational or trade programs in school or through nonprofit, commercial or private sectors and the receipt of training in occupational classes for such skills as cosmetology, auto mechanics, building trades, nursing, computer science, and other current or emerging employment sectors. Indicate whether the youth attended an employment program or received vocational training during the reporting period, with a "yes" or "no" as appropriate. If the youth is not in the served population this element must be left blank.

(25) *Budget and financial management.* Budget and financial management assistance includes the following types of training and practice: living within a budget; opening and using a checking and savings account; balancing a checkbook; developing consumer awareness and smart shopping skills; accessing information about credit, loans and taxes; and filling out tax forms. Indicate whether the youth received budget and financial management assistance during the reporting period with a "yes" or "no" as appropriate. If the youth is not in the served population this element must be left blank.

(26) *Housing education and home management training.* Housing education includes assistance or training in: locating and maintaining housing, including filling out a rental application and acquiring a lease, handling security deposits and utilities, understanding practices for keeping a healthy and safe home; understanding tenants rights and responsibilities, and handling landlord complaints. Home management includes instruction in food preparation, laundry, housekeeping, living cooperatively, meal planning, grocery shopping and basic maintenance and repairs. Indicate whether the youth received housing education or home management training during the reporting period with a "yes" or "no" as appropriate. If the youth is not in the served population this element must be left blank.

(27) *Health education and risk prevention.* Health education and risk prevention includes providing information about: hygiene, nutrition, fitness and exercise, and first aid; medical and dental care benefits, health care resources and insurance, prenatal care and maintaining personal medical records; sex education, abstinence education, and HIV prevention, including education and information about sexual development and sexuality, pregnancy prevention and family planning, and sexually transmitted diseases and AIDS; substance abuse prevention and intervention, including education and information about the effects and consequences of substance use (alcohol, drugs, tobacco) and substance avoidance and intervention. Health education and risk prevention does not include the youth's actual receipt of direct medical care or substance abuse treatment. Indicate whether the youth received these services during the reporting period with a "yes" or "no" as appropriate. If the youth is not in the

served population this element must be left blank.

(28) *Family support and healthy marriage education.* Such services include education and information about safe and stable families, healthy marriages, spousal communication, parenting, responsible fatherhood, childcare skills, teen parenting, and domestic and family violence prevention. Indicate whether the youth received these services during the reporting period with a "yes" or "no" as appropriate. If the youth is not in the served population this element must be left blank.

(29) *Mentoring.* Mentoring means that the youth has been matched with a screened and trained adult for a one-on-one relationship that involves the two meeting on a regular basis. Mentoring can be short-term but it may also support the development of a long-term relationship. While youth often are connected to adult role models through school, work, or family, this service category only includes a mentor relationship that has been facilitated or funded by the child welfare agency or its staff. Indicate whether the youth received mentoring services during the reporting period with a "yes" or "no" as appropriate. If the youth is not in the served population this element must be left blank.

(30) *Supervised independent living.* Supervised independent living means that the youth is living independently under a supervised arrangement that is sponsored, facilitated, or referred to by the child welfare agency. A youth in supervised independent living is not supervised 24-hours a day by an adult and often is provided with increased responsibilities, such as paying bills, assuming leases, and working with a landlord, while under the supervision of an adult. Indicate whether the youth was living in a supervised independent living setting during the reporting period with a "yes" or "no" as appropriate. If the youth is not in the served population this element must be left blank.

(31) *Room and board financial assistance.* Room and board financial assistance includes payments that the State agency makes or provides for room and board, including rent deposits, utilities, and other household start-up expenses. Indicate whether the youth received financial assistance with room and board during the reporting period with a "yes" or "no" as appropriate. If the youth is not in the served population this element must be left blank.

(32) *Education financial assistance.* Education financial assistance includes payments for education or training, including allowances to purchase textbooks, uniforms, computers, and other educational supplies; tuition assistance; scholarships; payment for educational preparation and support services (i.e., tutoring), and payment for GED and other educational tests that are paid for or provided by the State agency. This financial assistance also includes vouchers for tuition or vocational education or tuition waiver programs paid for or provided by the State agency. Indicate whether the youth received education financial assistance during the reporting period with a "yes" or "no" as appropriate. If the youth is not in the served population this element must be left blank.

(33) *Other financial assistance.* Other financial assistance includes any other payments made or provided by the State agency to help the youth live independently. Indicate whether the youth received any other financial assistance during the reporting period, with a "yes" or "no" as appropriate. If the youth is not in the served population this element must be left blank.

(34) *Outcomes reporting status.* If the State agency collects and reports information on any of the data elements in paragraphs (g)(38) through (g)(60) for a youth in the baseline or follow-up population, indicate that the youth participated. If the State agency is unable to report any of these data elements for a youth in the baseline or follow-up populations, indicate the reason. If the youth is not in the baseline or follow-up population this element must be left blank.

(i) *Youth participated.* The youth participated in the outcome survey, either fully or partially.

(ii) *Youth declined.* The State agency located the youth successfully and invited the youth's participation, but the youth declined to participate in the data collection.

(iii) *Parent declined.* The State agency invited the youth's participation, but the youth's parent/guardian declined to grant permission. This response may be used only when the youth has not reached the age of majority in the State and State law or policy requires a parent/guardian's permission for the youth to participate in information collection activities.

(iv) *Incapacitated.* The youth has a permanent or temporary mental or physical condition that prevents him or her from participating in the outcomes data collection.

(v) *Incarcerated.* The youth is unable to participate in the outcomes data collection because of his or her incarceration.

(vi) *Runaway/missing.* A youth in foster care is known to have run away or be missing from his or her foster care placement.

(vii) *Unable to locate/invite.* The State agency could not locate a youth who is not in foster care or otherwise invite such a youth's participation.

(viii) *Death.* The youth died prior to his participation in the outcomes data collection.

(35) *Date of outcome data collection.* The date of outcome data collection is the latest date that the agency collected data from a youth for the elements described in paragraphs (g)(38) through (g)(60) of this section. Indicate the month, day and year of the outcomes data collection. If the youth is not in the baseline or follow-up population this element must be left blank.

(36) *Foster care status—outcomes.* The youth is in foster care if the youth is under the placement and care responsibility of the State title IV–B/IV–E agency in accordance with the definition of foster care in section 1355.20 of this part. Indicate whether the youth is in foster care on the date of outcomes data collection, with a "yes" or "no" as appropriate. If the youth is not in the baseline or follow-up population this element must be left blank.

(37) *Sampling status.* Indicate whether a youth who has participated in the outcomes data collection as part of the baseline population currently (a 17-year-old in foster care) has been selected by the State agency to be surveyed for outcomes as part of the follow-up population (at ages 19 and 21). Indicate "yes" if the youth will be a part of the sample or the State agency will follow-up with all youth in the baseline population, "no" if the youth will not be a part of the follow-up population or sample, and "not applicable" if the State agency is not collecting information on the baseline population during the current reporting period. If the youth is not in the baseline or follow-up population this element must be left blank.

(38) *Current full-time employment.* A youth is employed full-time if employed at least 35 hours per week as of the date of the outcome data collection. Indicate whether the youth is employed full-time, with a "yes" or "no" as appropriate. If the youth does not answer this question indicate "declined." If the youth is not in the baseline or follow-up population this element must be left blank.

(39) *Current part-time employment.* A youth is employed part-time if

employed between one and 34 hours per week as of the date of the outcome data collection. Indicate whether the youth is employed part-time, with a "yes" or "no." If the youth does not answer this question, indicate "declined." If the youth is not in the baseline or follow-up population this element must be left blank.

(40) *Employment-related skills.* A youth has obtained employment-related skills if the youth completed an apprenticeship, internship, or other on-the-job training, either paid or unpaid, in the past year. The experience must help the youth acquire employment-related skills, such as specific trade skills such as carpentry or auto mechanics, or office skills such as word processing or use of office equipment. Indicate whether the youth has obtained employment-related skills, with a "yes" or "no" as appropriate. If the youth does not answer this question, indicate "declined." If the youth is not in the baseline or follow-up population this element must be left blank.

(41) *Social Security.* A youth is receiving some form of Social Security if receiving Supplemental Security Income (SSI) or Social Security Disability Insurance, either directly or as a dependent beneficiary as of the date of the outcome data collection. SSI payments are made to eligible low-income persons with disabilities. Social Security Disability Insurance payments are made to persons with a certain amount of work history who become disabled. A youth may receive Social Security Disability Insurance payments through a parent. Indicate whether the youth is receiving a form of Social Security payments, with a "yes" or "no" as appropriate. If the youth does not answer this question, indicate "declined." If the youth is not in the baseline or follow-up population this element must be left blank.

(42) *Educational aid.* A youth is receiving educational aid if using a scholarship, voucher (including Chafee education or training vouchers), grant, stipend, student loan, or other type of educational financial aid to cover any living or educational expenses as of the date of the outcome data collection. Scholarships, grants, and stipends are funds awarded for spending on expenses related to gaining an education. "Student loan" means a government-guaranteed, low-interest loan for students in post-secondary education. Indicate whether the youth is receiving educational aid, with a "yes" or "no" as appropriate. If the youth does not answer this question, indicate "declined." If the youth is not in the baseline or follow-up population this element must be left blank.

(43) *Public financial assistance.* A youth is receiving public financial assistance if receiving cash payments under TANF or the State's title IV–A family assistance cash payment program (title IV–A of the Social Security Act), as of the date of the outcome data collection. Indicate whether the youth is receiving public financial assistance, with "yes," "no" as appropriate, or "not applicable" for a youth still in foster care. If the youth does not answer this question, indicate "declined." If the youth is not in the baseline or follow-up population this element must be left blank.

(44) *Food assistance.* A youth is receiving food assistance if receiving food stamps in any form (i.e., government-sponsored checks, coupons or debit cards) to buy eligible food at authorized stores as of the date of the outcome data collection. This definition includes receiving food assistance through the Women, Infants and Children (WIC) program. Indicate whether the youth is receiving some form of food assistance with "yes," "no" or "not applicable" for a youth still in foster care. If the youth does not answer this question, indicate "declined." If the youth is not in the baseline or follow-up population this element must be left blank.

(45) *Housing assistance.* A youth is receiving housing assistance if the youth is living in government-funded public housing, or receiving a government-funded housing voucher to pay for part of his/her housing costs as of the date of the outcome data collection. Chafee room and board payments are not included in this definition. Indicate whether the youth is receiving housing assistance with "yes," "no" or "not applicable" if a youth still in foster care. If the youth does not answer this question, indicate "declined." If the youth is not in the baseline or follow-up population this element must be left blank.

(46) *Other support.* A youth has other support if receiving any other ongoing financial resources or support from another source, such as from a spouse or members of the birth or foster family, as of the date of outcome data collection. This definition does not include occasional gifts, such as birthday or graduation checks or small donations of food or personal incidentals and excludes support from any sources listed in the elements described in paragraphs (g)(41) through (g)(45) of this section. Indicate whether the youth is receiving any other financial support with a "yes" or "no." If the youth does not answer this question, indicate "declined." If the youth is not in the baseline or follow-up population this element must be left blank.

(47) *Highest educational certification received.* A youth has received an education certificate if the youth has a high school diploma or general equivalency degree (GED), vocational certificate, vocational license, associate's degree (A.A.), bachelor's degree (B.A. or B.S.) or a higher degree as of the date of the outcome data collection. Indicate the highest degree that the youth has received. If the youth does not answer this question, indicate "declined." If the youth is not in the baseline or follow-up population this element must be left blank.

(i) A vocational certificate is a document stating that a person has received education or training that qualifies him or her for a particular job, e.g., auto mechanics or cosmetology.

(ii) A vocational license is a document that indicates that the State or local government recognizes an individual as a qualified professional in a particular trade or business.

(iii) An associate's degree is generally a two-year degree from a community college.

(iv) A bachelor's degree is a four-year degree from a college or university.

(v) A higher degree indicates a graduate degree, such as a Master's Degree or a Juris Doctor (J.D.).

(vi) None of the above means that the youth has not received any of the above educational certifications.

(48) *Current enrollment and attendance.* Indicate whether the youth is enrolled in and attending high school, GED classes, or postsecondary vocational training or college, as of the date of the outcome data collection. A youth is still considered attending school if the youth is enrolled while the school is currently out of session. Indicate whether the youth is currently enrolled and attending school with a "yes" or "no." If the youth does not answer this question, indicate "declined." If the youth is not in the baseline or follow-up population this element must be left blank.

(49) *Connection to adult.* A youth has a connection to an adult if the youth knows as of the date of the outcome data collection, an adult who he or she can go to for advice or guidance when there is a decision to make or a problem to solve, or for companionship when celebrating personal achievements. The adult must be easily accessible to the youth, either by telephone or in person. This can include older relatives or foster parents, but excludes peers, spouses and

current caseworkers. Indicate whether the youth has such a connection with an adult, with a "yes" or "no." If the youth does not answer this question, indicate "declined." If the youth is not in the baseline or follow-up population this element must be left blank.

(50) *Homelessness.* A youth is considered to have experienced homelessness if the youth had no regular place to live of his own. For a 17-year-old youth in the baseline population, the data element relates to a youth's lifetime experiences. For a 19 or 21-year-old youth in the follow-up population, the data element relates to the youth's experience in the past two years. This definition includes situations where the youth is living in a car or on the street, staying temporarily with a friend, or staying in a shelter. Indicate if the youth has been homeless with a "yes" or "no." If the youth does not answer this question, indicate "declined." If the youth is not in the baseline or follow-up population this element must be left blank.

(51) *Substance abuse referral.* A youth has received a substance abuse referral if the youth was referred for an alcohol or drug abuse assessment or counseling. For a 17-year-old youth in the baseline population, the data element relates to a youth's lifetime experience. For a 19 or 21-year-old youth in the follow-up population, the data element relates to the youth's experience in the past two years. This definition includes either a self-referral or referral by a social worker, school staff, physician, mental health worker, foster parent, or other adult. Alcohol or drug abuse assessment is a process designed to determine if someone has a problem with alcohol or drug use. Indicate whether the youth had a substance abuse referral with a "yes" or "no." If the youth does not answer this question, indicate "declined." If the youth is not in the baseline or follow-up population this element must be left blank.

(52) *Incarceration.* A youth is considered to have been incarcerated if the youth was arrested, or was held or detained in a jail, prison, correctional facility, or juvenile or community detention facility in connection with allegedly committing a crime (misdemeanor or felony). For a 17-year-old youth in the baseline population, the data element relates to a youth's lifetime experience. For a 19-or 21-year-old youth in the follow-up population, the data element relates to the youth's experience in the past two years. Indicate whether the youth was incarcerated or arrested with a "yes" or "no" as appropriate. If the youth does not answer this question, indicate "declined." If the youth is not in the baseline or follow-up population this element must be left blank.

(53) *Children.* A youth is considered to have a child if the youth has given birth herself, or the youth has fathered any children who were born. For a 17-year-old youth in the baseline population, the data element relates to a youth's lifetime experience. For a 19- or 21-year-old youth in the follow-up population, the data element refers to children born to the youth in the past two years only. This refers to biological parenthood. Indicate whether the youth had a child with a "yes" or "no." If males say they do not know, indicate "no." If the youth does not answer this question, indicate "declined." If the youth is not in the baseline or follow-up population this element must be left blank.

(54) *Marriage at child's birth.* A youth is married at the time of the child's birth if he or she was united in matrimony according to the laws of the State to the child's other parent. Indicate whether the youth was married at the time of the birth of any child reported in the element described in paragraph (g)(53) of this section, with a "yes" or "no" as appropriate. If the youth does not answer this question, indicate "declined." If the answer to the element described in paragraph (g)(53) is "no," indicate "not applicable." If the youth is not in the baseline or follow-up population this element must be left blank.

(55) *Medicaid.* A youth is receiving Medicaid if the youth is participating in a Medicaid-funded State program, which is a medical assistance program supported by the Federal and State government under title XIX of the Social Security Act as of the date of outcomes data collection. Indicate whether the youth receives Medicaid with "yes," "no" or "don't know" as appropriate. If the youth does not answer this question, indicate "declined." If the youth is not in the baseline or follow-up population this element must be left blank.

(56) *Other health insurance coverage.* A youth has other health insurance if the youth has a third party pay (other than Medicaid) for all or part of the costs of medical care, mental health care, and/or prescription drugs, as of the date of the outcome data collection. This definition includes group coverage offered by employers, schools or associations, an individual health plan, self-employed plans, or inclusion in a parent's insurance plan. This also could include access to free health care through a college, Indian Health Service, or other source. Medical or drug discount cards or plans are not insurance. Indicate "yes", "no," or "don't know," as appropriate, or "not applicable" for youth participating solely in Medicaid. If the youth does not answer this question, indicate "declined." If the youth is not in the baseline or follow-up population this element must be left blank.

(57) *Health insurance type: medical only.* Indicate whether the youth has coverage for medical health care only if the youth has indicated that he or she has health insurance coverage in the element described in paragraph (g)(56) of this section. If a youth knows that he or she has one type of coverage and is not sure about the other types, indicate only the type he or she knows about. Indicate "not applicable" if the youth has no health insurance coverage or no coverage other than Medicaid. If the youth does not answer this question, indicate "declined." If the youth is not in the baseline or follow-up population this element must be left blank.

(58) *Health insurance type: medical and mental health.* Indicate whether the youth has insurance coverage for medical and mental health care only if the youth has indicated that he or she has health insurance coverage as described in paragraph (g)(56) of this section. If a youth knows that he or she has one type of coverage and is not sure about the other types, indicate only the type he or she knows about. Indicate "not applicable" if the youth has no health insurance coverage or no coverage other than Medicaid. If the youth does not answer this question, indicate "declined." If the youth is not in the baseline or follow-up population this element must be left blank.

(59) *Health insurance type: medical and prescription drugs.* Indicate whether the youth has insurance coverage for medical health care and prescription drugs only if the youth has indicated that he or she has health insurance coverage as described in paragraph (g)(56) of this section. If a youth knows that he or she has one type of coverage and is not sure about the other types, indicate only the type he or she knows about. Indicate "not applicable" if the youth has no health insurance coverage or no coverage other than Medicaid. If the youth does not answer this question, indicate "declined." If the youth is not in the baseline or follow-up population this element must be left blank.

(60) *Health insurance type: medical, mental health and prescription drugs.* Indicate whether the youth has insurance coverage for medical, mental health and prescription drugs, if the youth has indicated that he or she has health insurance coverage as described

in paragraph (g)(56) of this section. If a youth knows that he or she has one type of coverage and is not sure about the other types, indicate only the type he or she knows about. Indicate "not applicable" if the youth has no health insurance coverage or no coverage other than Medicaid. If the youth does not answer this question, indicate "declined." If the youth is not in the baseline or follow-up population this element must be left blank.

(h) *Electronic reporting.* The State agency must report all data to ACF electronically according to ACF's specifications and Appendix A of this part.

§ 1356.84 Sampling.

(a) The State agency may collect and report the information required in § 1356.83(e) of this part on a sample of the baseline population consistent with the sampling requirements described in paragraphs (b) and (c) of this section.

(b) The State agency must select the follow-up sample using simple random sampling procedures based on random numbers generated by a computer program, unless ACF approves another sampling procedure. The sampling universe consists of youth in the baseline population who participated in the State agency's data collection at age 17.

(c) The sample size is based on the number of youth in the baseline population who participated in the State agency's data collection at age 17.

(1) If the number of youth in the baseline population who participated in the outcome data collection at age 17 is 5,000 or less, the State agency must calculate the sample size using the formula in Appendix C of this part, with the Finite Population Correction (FPC). The State agency must increase the resulting number by 30 percent to allow for attrition, but the sample size may not be larger than the number of youth who participated in data collection at age 17.

(2) If the number of youth in the baseline population who participated in the outcome data collection at age 17 is greater than 5,000, the State agency must calculate the sample size using the formula in Appendix C of this part, without the FPC. The State agency must increase the resulting number by 30 percent to allow for attrition, but the sample size must not be larger than the number of youth who participated in data collection at age 17.

§ 1356.85 Compliance.

(a) *File submission standards.* A State agency must submit a data file in accordance with the following file submission standards:

(1) *Timely data.* The data file must be received in accordance with the reporting period and timeline described in § 1356.83(a) of this part;

(2) *Format.* The data file must be in a format that meets ACF's specifications; and,

(3) *Error-free information.* The file must contain data in the general and demographic elements described in § 1356.83(g)(1) through (g)(5), (g)(14) and (g)(36) of this part that is 100 percent error-free as defined in paragraph (c) of this section.

(b) *Data standards.* A State agency also must submit a file that meets the following data standards:

(1) *Error-free.* The data for the applicable demographic, service and outcomes elements defined in § 1356.83(g)(6) through (13), (g)(15) through (35) and (g)(37) through (60) of this part must be 90 percent error-free as described and assessed according to paragraph (c) of this section.

(2) *Outcomes universe.* In any Federal fiscal year for which the State agency is required to submit information on the follow-up population, the State agency must submit an outcomes data record on each youth for whom the State agency reported outcome information as part of the baseline population or, if the State agency has elected to conduct sampling in accordance with § 1356.84 of this part, on each youth in the sample as indicated in § 1356.83(g)(37) of this part.

(3) *Outcomes participation rate.* The State agency must report outcome information on each youth in the follow-up population at the rates described in paragraphs (b)(3)(i) through (iii) of this section. A youth has participated in the outcomes data collection if the State agency collected and reported a valid response (i.e., a response option other than "declined" or "not applicable") to any of the outcomes-related elements described in § 1356.83(g)(38) through (g)(60) of this part.

(i) *Foster care youth participation rate.* The State agency must report outcome information on at least 80 percent of youth in foster care on the date of outcomes data collection as indicated in § 1356.83(g)(35) and (g)(36) of this part.

(ii) *Discharged youth participation rate.* The State agency must report outcome information on at least 60 percent of youth who are not in foster care on the date of outcomes data collection as indicated in section 1356.83(g)(35) and (g)(36) of this part.

(iii) *Effect of sampling on participation rates.* For State agencies electing to sample in accordance with section 1356.84 and Appendix C of this part, ACF will apply the outcome participation rates in paragraphs (b)(2)(i) and (ii) of this section to the minimum required sample size for the State.

(c) *Errors.* ACF will assess each State agency's data file for the following types of errors: missing data, out-of-range data or internally inconsistent data. The amount of errors acceptable for each reporting period is described in paragraphs (a) and (b) of this section.

(1) Missing data is any element that has a blank response, when a blank response is not a valid response option as described in § 1356.83(g) of this part;

(2) Out-of-range data is any element that contains a value that is outside the parameters of acceptable responses or exceeds, either positively or negatively, the acceptable range of response options as described in § 1356.83(g) of this part; and

(3) Internally inconsistent data is any element that fails an internal consistency check designed to evaluate the logical relationship between elements in each record. The evaluation will identify all elements involved in a particular check as in error.

(d) *Review for compliance.* (1) ACF will determine whether a State agency's data file for each reporting period is in compliance with the file submission standards and data standards in paragraphs (a) and (b) of this section.

(i) For State agencies that achieve the file submission standards, ACF will determine whether the State agency's data file meets the data standards.

(ii) For State agencies that do not achieve the file submission standards or data standards, ACF will notify the State agency that they have an opportunity to submit a corrected data file by the end of the subsequent reporting period in accordance with paragraph (e) of this section.

(2) ACF may use monitoring tools or assessment procedures to determine whether the State agency is meeting all the requirements of §§ 1356.81 through 1356.85 of this part.

(e) *Submitting corrected data and noncompliance.* A State agency that does not submit a data file that meets the standards in section 1356.85 of this part will have an opportunity to submit a corrected data file in accordance with paragraphs (e)(1) and (e)(2) of this section.

(1) A State agency must submit a corrected data file no later than the end of the subsequent reporting period as defined in section 1356.83(a) of this part (i.e., by September 30 or March 31).

(2) If a State agency fails to submit a corrected data file that meets the compliance standards in section 1356.85 of this part and the deadline in

paragraph (e)(1) of this section, ACF will make a final determination that the State is out of compliance, notify the State agency, and apply penalties as outlined defined in section 1356.86 of this part.

§ 1356.86 Penalties for noncompliance.

(a) *Definition of Federal funds subject to a penalty.* The funds that are subject to a penalty are the total CFCIP funds allocated to the State for the Federal fiscal year that corresponds with the reporting period for which the State agency was required originally to submit data according to § 1356.83(a) of this part. The total CFCIP funds include funds allocated or reallocated to the State agency under section 477(c)(1) or 477(c)(3) of the Act.

(b) *Assessed penalty amounts.* ACF will assess penalties in the following amounts, depending on the area of noncompliance:

(1) *Penalty for not meeting file submission standards.* ACF will assess a penalty in an amount equivalent to two and one half percent (2.5%) of the funds subject to a penalty for each reporting period in which ACF makes a final determination that the State agency's data file does not comply with the file submission standards defined in § 1356.85(a) of this part.

(2) *Penalty for not meeting certain data standards.* ACF will assess a penalty in an amount equivalent to:

(i) One and one quarter percent (1.25%) of the funds subject to a penalty for each reporting period in which ACF makes a final determination that the State agency's data file does not comply with the data standard for error-free data as defined in § 1356.85(b)(1) of this part.

(ii) One and one quarter percent (1.25%) of the funds subject to a penalty for each reporting period in which ACF makes a final determination that the State agency's data file does not comply with the outcome universe standard defined in § 1356.85(b)(2) of this part.

(iii) One half of one percent (0.5%) of the funds subject to a penalty for each reporting period in which ACF makes a final determination that the State agency's data file does not comply with the participation rate for youth in foster care standard defined in § 1356.85(b)(3)(i) of this part.

(iv) One half of one percent (0.5%) of the funds subject to a penalty for each reporting period in which ACF makes a final determination that the State agency's data file does not comply with the participation rate for discharged youth standard defined in § 1356.85(b)(3)(ii) of this part.

(c) *Calculation of the penalty amount.* ACF will add together any assessed penalty amounts described in paragraph (b)(1) or (b)(2) of this section. If the total calculated penalty result is less than one percent of the funds subject to a penalty, the State agency will be penalized in the amount of one percent.

(d) *Notification of penalty amount.* ACF will advise the State agency in writing of a final determination of noncompliance and the amount of the total calculated penalty as determined in paragraph (c) of this section.

(e) *Interest.* The State agency will be liable for interest on the amount of funds penalized by the Department, in accordance with the provisions of § 30.13 of this part.

(f) *Appeals.* The State agency may appeal, pursuant to part 16 of this title, ACF's final determination and any subsequent withholding or reduction of funds to the HHS Departmental Grant Appeals Board.

APPENDIX A TO PART 1356—NYTD DATA ELEMENTS

Element No.	Element name	Responses options *	Applicable population
1	State	2 digit FIPS code.	
2	Report date	CCYYMM: CC = century year (i.e., 20); YY = decade year (00–99); MM = month (01–12).	
3	Record number	Unique, encrypted person identification number.	
4	Date of birth	CCYYMMDD: CC = century year (i.e., 20); YY = decade year (00–99); MM = month (01–12); DD = day (01–31).	
5	Sex	Male, Female.	
6	Race—American Indian or Alaska Native.	Yes, No	All youth in reporting population (i.e., served, baseline and follow-up populations).
7	Race—Asian	Yes, No.	
8	Race—Black or African American	Yes, No.	
9	Race—Native Hawaiian or Other Pacific Islander.	Yes, No.	
10	Race—White	Yes, No.	
11	Race—Unknown/Unable to Determine	Yes, No.	
12	Race—Declined	Yes, No.	
13	Hispanic or Latino Ethnicity	Yes, No, Unknown/unable to determine, Declined.	
14	Foster care status—services	Yes, No	Served population only.
15	Local agency	FIPS code(s), Centralized unit.	
16	Tribal membership	Yes, No.	
17	Adjudicated delinquent	Yes, No.	
18	Last grade completed	Less than 6th grade, 6th grade, 7th grade, 8th grade, 9th grade, 10th grade, 11th grade, 12th grade, Post-secondary education or training College, at least one semester.	
19	Special education status	Yes, No.	
20	Independent living needs assessment	Yes, No.	
21	Academic support	Yes, No.	
22	Post-secondary educational support	Yes, No.	
23	Career preparation	Yes, No.	

APPENDIX A TO PART 1356—NYTD DATA ELEMENTS—Continued

Element No.	Element name	Responses options *	Applicable population
24	Employment programs or vocational training.	Yes, No	Served population only.
25	Budget and financial management	Yes, No.	
26	Housing education and home management training.	Yes, No.	
27	Health education and risk prevention	Yes, No.	
28	Family Support/Health Marriage Education.	Yes, No.	
29	Mentoring	Yes, No.	
30	Supervised independent living	Yes, No.	
31	Room and board financial assistance	Yes, No.	
32	Education financial assistance	Yes, No.	
33	Other financial assistance	Yes, No.	
34	Outcomes reporting status	Youth Participated, Youth Declined, Parent Declined, Youth Incapacitated, Incarcerated, Runaway/Missing, Unable to locate/invite, Death.	Baseline and follow-up populations.
35	Date of outcome data collection	CCYYMMDD: CC = century year (i.e., 20); YY = decade year (00–99); MM = month (01–12); DD = day (01–31).	
36	Foster care status-outcomes	Yes, No.	
37	Sampling status	Yes, No, Not applicable.	
38	Current full-time employment	Yes, No, Declined.	
39	Current part-time employment	Yes, No, Declined.	
40	Employment-related skills	Yes, No, Declined.	
41	Social Security	Yes, No, Declined.	
42	Educational aid	Yes, No, Declined.	
43	Public financial assistance	Yes, No, Not applicable, Declined.	
44	Food assistance	Yes, No, Not applicable, Declined.	
45	Housing assistance	Yes, No, Not applicable, Declined.	
46	Other support	Yes, No, Declined	Baseline and follow-up population.
47	Highest educational certification received.	High school diploma/GED, Vocational certificate, Vocational license, Associate's degree, Bachelor's degree, Higher, None of the above, Declined.	
48	Current enrollment and attendance	Yes, No, Declined.	
49	Connection to adult	Yes, No, Declined.	
50	Homelessness	Yes, No, Declined.	
51	Substance abuse referral	Yes, No, Declined.	
52	Incarceration	Yes, No, Declined.	
53	Children	Yes, No, Declined.	
54	Marriage at child's birth	Yes, No, Not applicable, Declined.	
55	Medicaid	Yes, No, Declined.	
56	Other health insurance coverage	Yes, No, Not applicable, Declined.	
57	Health insurance type—medical only	Yes, No, Not applicable, Declined.	
58	Health insurance type—medical and mental health.	Yes, No, Not applicable, Declined	Baseline and follow-up population.
59	Health insurance type—medical and prescription drugs.	Yes, No, Not applicable, Declined.	
60	Health insurance type—medical, mental heath and prescription drugs.	Yes, No, Not applicable, Declined.	

*A blank response is acceptable in elements 14 through 60 only if the youth is not a part of the applicable reporting population. Blank responses are never acceptable in elements one—13.

APPENDIX B TO PART 1356—NYTD YOUTH OUTCOME SURVEY

Data element	Question to youth and response options	Definition
INFORMATION TO COLLECT FROM ALL YOUTH SURVEYED FOR OUTCOMES, WHETHER IN FOSTER CARE OR NOT		
Current full-time employment.	Currently are you employed full-time? ___Yes ___No ___Declined	"Full-time" means working at least 35 hours per week.
Current part-time employment.	Currently are you employed part-time? ___Yes ___No ___Declined	"Part-time" means working at least 1–34 hours per week.

APPENDIX B TO PART 1356—NYTD YOUTH OUTCOME SURVEY—Continued

Data element	Question to youth and response options	Definition
Employment-related skills.	In the past year, did you complete an apprenticeship, internship, or other on-the-job training, either paid or unpaid? ___Yes ___No ___Declined	This means apprenticeships, internships, or other on-the-job trainings, either paid or unpaid, that helped the youth acquire employment-related skills (which can include specific trade skills such as carpentry or auto mechanics, or office skills such as word processing or use of office equipment).
Social Security	Currently are you receiving social security payments (Supplemental Security Income or SSI, disability, or dependents' payments)? ___Yes ___No ___Declined	These are payments from the government to meet basic needs for food, clothing, and shelter of a person with a disability. A youth may be receiving these payments because of a parent or guardian's disability, rather than his/her own.
Scholarship	Currently are you using a scholarship, grant, stipend, student loan, voucher, or other type of educational financial aid to cover any living or educational expenses? ___Yes ___No ___Declined	Scholarships, grants, and stipends are funds awarded for spending on expenses related to gaining an education. "Student loan" means a government-guaranteed, low-interest loan for students in post-secondary education.
Other support	Currently are you receiving any ongoing financial resources or support from another source, excluding paid employment? ___Yes ___No ___Declined	This means ongoing support from a spouse or family member (either biological or foster family). This does not include occasional gifts, such as birthday or graduation checks or small donations of food or personal incidentals.
Highest educational certification received.	What is the highest educational degree or certification that you have received? ___High school diploma/GED ___Vocational certificate ___Vocational license ___Associate's degree (A.A.) ___Bachelor's degree (B.A. or B.S.) ___Graduate Degree ___None of the above ___Declined	"Vocational certificate" means a document stating that a person has received education or training that qualifies him or her for a particular job, *e.g.*, auto mechanics or cosmetology. "Vocational license" means a document that indicates that the State or local government recognizes an individual as a qualified professional in a particular trade or business. An Associate's degree is generally a two-year degree from a community college, and a Bachelor's degree is a four-year degree from a college or university. "Graduate degree" indicates a graduate degree, such as a Masters or Doctorate degree. "None of the above" means that the youth has not received any of the above educational certifications.
Current enrollment and attendance.	Currently are you enrolled in and attending high school, GED classes, post-high school vocational training, or college? ___Yes ___No ___Declined	This means both enrolled in *and attending* high school, GED classes, or post-secondary vocational training or college. A youth is still considered attending school if the youth is enrolled while the school is currently out of session (*e.g.*, Spring break, summer vacation, etc.).
Connection to adult	Currently is there at least one adult in your life, other than your caseworker, to whom you can go for advice or emotional support? ___Yes ___No ___Declined	This refers to an adult who the youth can go to for advice or guidance when there is a decision to make or a problem to solve, or for companionship to share personal achievements. The adult must be easily accessible to the youth, either by telephone or in person.
Homelessness	Have you ever been homeless? OR In the past two years, were you homeless at any time? ___Yes ___No ___Declined	"Homeless" means that the youth had no place of his or her own to live on a regular basis. Examples include living in a car or on the street, staying temporarily with a friend, or staying in a shelter.

APPENDIX B TO PART 1356—NYTD YOUTH OUTCOME SURVEY—Continued

Data element	Question to youth and response options	Definition
Substance abuse referral.	Have you ever referred yourself or has someone else referred you for alcohol or drug abuse assessment or counseling? OR In the past two years, did you refer yourself, or had someone else referred you for alcohol or drug abuse assessment or counseling? ___Yes ___No ___Declined	This includes either self-referring or being referred by a social worker, school staff, physician, mental health worker, foster parent, or other adult for alcohol or drug abuse assessment or counseling. Alcohol or drug abuse assessment is a process designed to determine if someone has a problem with alcohol or drug use.
Incarceration	Have you ever been arrested, incarcerated or detained in a jail, prison, correctional facility, or juvenile or community detention facility, because of an alleged crime? OR In the past two years, were you arrested, or were you incarcerated or detained in a jail, prison, correctional facility, or juvenile or community detention facility, because of an alleged crime? ___Yes ___No ___Declined	This means that youth was arrested, or was held or detained in a jail, prison, correctional facility, or juvenile or community detention facility in connection with an alleged crime (misdemeanor or felony) committed by the youth.
Children	Have you ever given birth or fathered any children that were born? OR In the past two years, did you give birth to or father any children that were born? ___Yes ___No ___Declined	This means giving birth to or fathering at least one child that was born. If males do not know, answer "No."
Marriage	If you responded yes to the previous question, were you married to the child's other parent at the time each child was born? ___Yes ___No ___Declined	This means that when every child was born in the past year, the youth was married to the other parent of the child.
Medicaid	Currently are you on Medicaid [or use the name of the State's medical assistance program under title XIX]? ___Yes ___No ___Don't know ___Declined	Medicaid (or the State medical assistance program) is a health insurance program funded by the government.
Health insurance	Currently do you have health insurance, other than Medicaid? ___Yes ___No ___Don't know ___Declined	"Health insurance" means having a third party pay for all or part of health care. Youth might have health insurance such as group coverage offered by employers or schools, or individual policies that cover medical and/or mental health care and/or prescription drugs, or youth might be covered under parents' insurance. This also could include access to free health care through a college, Indian Tribe, or other source.
ADDITIONAL OUTCOMES INFORMATION TO COLLECT FROM YOUTH OUT OF FOSTER CARE		
Public financial assistance.	Currently are you receiving cash payments under TANF [or use the name of the State's family assistance cash payment program] to help support a child? ___Yes ___No ___Declined	This refers to receiving cash assistance under TANF (or the State's family assistance cash payment program).
Food assistance	Currently are you receiving food assistance? ___Yes ___No ___Declined	Food assistance includes food stamps, which are coupons or debit cards that recipients can use to buy eligible food at authorized stores. Food assistance also includes assistance from the Women, Infants and Children (WIC) program.

APPENDIX B TO PART 1356—NYTD YOUTH OUTCOME SURVEY—Continued

Data element	Question to youth and response options	Definition
Housing assistance	Currently are you receiving any sort of housing assistance from the government, such as living in public housing or receiving a housing voucher? ___Yes ..... ___No ..... ___Declined	Public housing is rental housing provided by the government to keep rents affordable for eligible individuals and families, and a housing voucher allows participants to choose their own housing while the government pays part of the housing costs. This does not include payments from the child welfare agency for room and board payments.

Appendix C to Part 1356—Calculating Sample Size for NYTD Follow-Up Populations

1. Using Finite Population Correction

The Finite Population Correction (FPC) is applied when the sample is drawn from a population of one to 5,000 youth, because the sample is more than five percent of the population.

- Sample size with FPC =

$$\frac{(Py)(Pn)+\text{Std. error}^2}{\text{Std. error}^2+\frac{(Py)(Pn)}{N}}$$

- (Py)(Pn), an estimate of the percent of responses to a dichotomous variable, is (.50)(.50) for the most conservative estimate.
- Standard error =

$$\frac{\text{Acceptable level of error}}{\text{Z coefficient}}$$

- Acceptable level of error = .05 (results are plus or minus five percentage points from the actual score)
- Z = 1.645 (90 percent confidence interval)
- Standard error, 90 percent confidence interval =

$$\frac{.05}{1.645}=.0303951$$

- N = number of youth from whom the sample is being drawn

2. Not Using Finite Population Correction

The FPC is not applied when the sample is drawn from a population of over 5,000 youth.

- Sample size without FPC, 90 percent confidence interval =

$$\frac{(Py)(Pn)}{\text{Std. error}^2}=\frac{(.50)(.50)}{(.0303951)^2}=271$$

[FR Doc. 06–6005 Filed 7–13–06; 8:45 am]
BILLING CODE 4184–01–P

Reader Aids

Federal Register

Vol. 71, No. 135

Friday, July 14, 2006

CUSTOMER SERVICE AND INFORMATION

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

ELECTRONIC RESEARCH

World Wide Web

Full text of the daily Federal Register, CFR and other publications is located at: **http://www.gpoaccess.gov/nara/index.html**

Federal Register information and research tools, including Public Inspection List, indexes, and links to GPO Access are located at: **http://www.archives. gov/federal__register/**

E-mail

FEDREGTOC-L (Federal Register Table of Contents LISTSERV) is an open e-mail service that provides subscribers with a digital form of the Federal Register Table of Contents. The digital form of the Federal Register Table of Contents includes HTML and PDF links to the full text of each document.

To join or leave, 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.

PENS (Public Law Electronic Notification Service) is an e-mail service that notifies subscribers of recently enacted laws.

To subscribe, go to **http://listserv.gsa.gov/archives/publaws-l.html** and select *Join or leave the list (or change settings);* then follow the instructions.

FEDREGTOC-L and **PENS** are mailing lists only. We cannot respond to specific inquiries.

Reference questions. Send questions and comments about the Federal Register system to: **fedreg.info@nara.gov**

The Federal Register staff cannot interpret specific documentsor regulations.

FEDERAL REGISTER PAGES AND DATE, JULY

37807–38052 3
38053–38258 5
38259–38510 6
38511–38752 7
38753–38978 10
38979–39202 11
39203–39510 12
39511–40002 13
40003–40382 14

CFR PARTS AFFECTED DURING JULY

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:
7758 (See 8033) 38255
8033 38255
8034 38509
Executive Orders:
13381 (Amended by 13408) 37807
13408 37807
13409 38511
Administrative Orders:
Presidential Determinations:
No. 2006-17 of June 30, 2006 39511

5 CFR

534 38753
Proposed Rules:
1630 40034
1651 40034
1653 40034
1690 40034

7 CFR

210 39513
215 39513
220 39513
225 39513
226 39513
235 39513
625 38053
1900 38979
Proposed Rules:
52 39017
205 37854
319 38302
457 40194
916 38115
917 38115
925 39019
944 39019
1421 37857

9 CFR

94 38259

10 CFR

72 39520
110 40003
Proposed Rules:
20 37862
32 37862
431 38799

11 CFR

104 38513

12 CFR

201 39520
Proposed Rules:
563 37862
615 39235
1750 39399

14 CFR

23 39203
25 38513
39 ..... 37980, 38053, 38054, 38059, 38062, 38515, 38979, 39521
71 38516
91 40003
97 ..... 38064, 39522, 39523
121 ..... 38517, 40003
125 40003
135 40003
Proposed Rules:
23 38539
25 ..... 38539, 38540, 38541, 38542, 39235
39 ..... 37868, 38304, 38311, 39020, 39023, 39025, 39237, 39242, 39244, 39593, 39595, 39597, 39600
71 39247
91 ..... 38118, 38542
121 ..... 38540, 38541, 38542
125 38542
129 ..... 38540, 38541, 38542

15 CFR

700 39526
Proposed Rules:
740 ..... 38313, 39603
742 ..... 38313, 39603
744 38313
748 ..... 38313, 39603
754 39603
764 38321
766 38321
772 39603

16 CFR

1031 38754
Proposed Rules:
311 38321
1119 39248
1500 39249
1507 39249

17 CFR

1 37809
15 37809
16 37809
17 37809
18 37809
19 37809
21 37809
37 37809
41 39534
240 39534
Proposed Rules:
38 38740

18 CFR

284.....38066

Proposed Rules:

35.....39251
37.....39251
366.....39603
367.....39603
368.....39603
369.....39603
375.....39603
803.....38692
804.....38692
805.....38692

19 CFR

Proposed Rules:

4.....40035
122.....40035

20 CFR

422.....38066

21 CFR

520 .....38071, 38072, 39203, 39543, 40010
522 .....39204, 39544, 39545, 39547
524.....38073, 38261
526.....39544
556.....39545
558.....39204

26 CFR

1 .....38074, 38261, 38262, 39548
301.....38262, 38985

Proposed Rules:

1 .....38322, 38323, 39604
301.....38323
602.....38323

27 CFR

Proposed Rules:

9.....37870

28 CFR

58.....38076

Proposed Rules:

511.....38543

29 CFR

1910.....38085
1915.....38085
1926.....38085
4022.....40011
4044.....40011
4281.....39205

30 CFR

Proposed Rules:

206.....38545
210.....38545
216.....38545
218.....38545
250.....37874

31 CFR

Ch. V.....39708
103.....39554

Proposed Rules:

103.....39606

32 CFR

43.....38760
50.....38760

Proposed Rules:

310.....40282

33 CFR

1.....39206
64.....39206
72.....39206
81.....39206
89.....39206
100 .....38517, 38520, 38522, 39206, 39561, 39563, 40012
101.....39206
104.....39206
117 .....38524, 38988, 38989, 38990, 39563
120.....39206
135.....39206
146.....39206
148.....39206
151.....39206
153.....39206
154.....39206
155.....39206
156.....39206
157.....39206
160.....39206
164.....39206
165 .....37822, 37824, 37825, 37827, 37829, 37831, 37833, 37835, 37837, 38087, 38089, 38526, 38528, 38530, 38532, 38534, 39206, 39565, 39567

Proposed Rules:

100 .....38561, 39609, 39611, 39613
117.....39028

34 CFR

668.....37990
674.....37990
675.....37990
676.....37990
682.....37990
685.....37990
690.....37990
691.....37990

36 CFR

Proposed Rules:

1193.....38324
1194.....38324
1195.....38563

37 CFR

Proposed Rules:

1.....38808

38 CFR

Proposed Rules:

3.....39616

39 CFR

111.....38537, 38966

40 CFR

52 .....38770, 38773, 38776, 38990, 38993, 38995, 38997, 39001, 39570, 39572, 39574, 40014, 40023
60.....38482, 39154
63.....39579, 40316
70.....38776, 38997
81 .....39001, 39574, 40023
85.....39154
89.....39154
94.....39154
180.....39211
260.....40354
261.....40254
262.....40254
264.....40254
265.....40254
266.....40254
267.....40254
268.....40254
270.....40254
271.....40254
273.....40254
279.....40254
281.....39213
1039.....39154
1065.....39154
1068.....39154

Proposed Rules:

52 .....38824, 38831, 39030, 39251, 39259, 39618, 40048
70.....38831
81.....39618
82.....38325
122.....37880
180.....38125, 40051
300.....39032
412.....37880
721.....39035

42 CFR

413.....38264
435.....39214
436.....39214
440.....39214
441.....39214
457.....39214
483.....39214

43 CFR

4100.....39402

44 CFR

64.....38780
206.....40025

45 CFR

Proposed Rules:

1356.....40346

46 CFR

Proposed Rules:

401.....39629

47 CFR

1 .....38091, 38781, 39592
15.....39229
22.....38091
24.....38091
54.....38266, 38781
64.....38091, 38268
73 .....39231, 39232, 39233

Proposed Rules:

1.....38564
2.....38564
4.....38564
6.....38564
7.....38564
9.....38564
11.....38564
13.....38564
15.....38564
17.....38564
18.....38564
20.....38564
22.....38564
24.....38564
25.....38564
27.....38564
52.....38564
53.....38564
54.....38564, 38832
63.....38564
64.....38564
68.....38564
73.....38564, 39278
74.....38564
76.....38564
78.....38564
79.....38564
90.....38564
95.....38564
97.....38564
101.....38564

48 CFR

Ch. 1.....38238, 38250
Ch. 2.....39004
2.....38238
7.....38238
18.....38247
34.....38238
52.....38238
208.....39004
212.....39005
216.....39006
219.....39008
225 .....39004, 39005, 39008
239.....39009, 39010
252 .....39004, 39005, 39008, 39010
253.....39004

49 CFR

574.....39233

Proposed Rules:

571.....40057

50 CFR

91.....39011
223.....38270
226.....38277
300.....38297, 38298
622.....38797
648.....40027
660.....37839, 38111
679 .....38797, 39015, 40028, 40029
680 .....38112, 38298, 40030

Proposed Rules:

17.....37881, 38593
300.....39642
648.....38352
679.....39046

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 JULY 14, 2006

ENVIRONMENTAL PROTECTION AGENCY

Air pollutants, hazardous; national emission standards:
- Miscellaneous organic chemical manufacturing; published 7-14-06

Air quality implementation plans; approval and promulgation; various States:
- Maryland; published 6-14-06
- Rhode Island; published 7-14-06

Solid wastes:
- Hazardous waste and used oil; miscellaneous corrections; published 7-14-06

HEALTH AND HUMAN SERVICES DEPARTMENT

Food and Drug Administration

Animal drugs, feeds, and related products:
- Ivermectin paste; published 7-14-06

HOMELAND SECURITY DEPARTMENT

Coast Guard

Ports and waterways safety; regulated navigation areas, safety zones, security zones, etc.:
- Beaufort River, Beaufort, SC; published 7-7-06

HOMELAND SECURITY DEPARTMENT

Federal Emergency Management Agency

Disaster assistance:
- Public assistance eligibility; published 7-14-06

NUCLEAR REGULATORY COMMISSION

Nuclear equipment and material; export and import:
- Energy Policy Act; nuclear export and import provisions; implementation
- Correction; published 7-14-06

TRANSPORTATION DEPARTMENT

Federal Aviation Administration

Airworthiness directives:
- Dornier Luftfahrt GmbH; published 6-5-06
- Pacific Aerospace Corp. Ltd.; published 6-5-06

COMMENTS DUE NEXT WEEK

AGRICULTURE DEPARTMENT

Agricultural Marketing Service

Milk marketing orders:
- Northeast et al.; comments due by 7-17-06; published 5-17-06 [FR 06-04591]

Nectarines and peaches grown in California; comments due by 7-17-06; published 7-5-06 [FR E6-10425]

AGRICULTURE DEPARTMENT

Commodity Credit Corporation

Export programs:
- Commodities procurement for foreign donation; Open for comments until further notice; published 12-16-05 [FR E5-07460]

COMMERCE DEPARTMENT

National Oceanic and Atmospheric Administration

Environmental statements; availability, etc.:
- Channel Island National Marine Sanctuary; revision; comments due by 7-21-06; published 5-19-06 [FR 06-04670]

Fishery conservation and management:
- Caribbean, Gulf, and South Atlantic fisheries—
  - Snapper-grouper; comments due by 7-17-06; published 5-18-06 [FR E6-07586]
- Northeastern United States fisheries—
  - Atlantic sea scallop; comments due by 7-17-06; published 6-16-06 [FR 06-05504]
  - Atlantic sea scallop; comments due by 7-21-06; published 7-6-06 [FR 06-06016]

DEFENSE DEPARTMENT

Defense Acquisition Regulations System

Acquisition regulations:
- Radio frequency identification; comments due by 7-18-06; published 5-19-06 [FR 06-04682]

ENERGY DEPARTMENT

Federal Energy Regulatory Commission

Natural gas companies (Natural Gas Act):
- Natural gas pipeline facilities; damage reporting requirements; revision; comments due by 7-19-06; published 6-19-06 [FR E6-09419]

ENVIRONMENTAL PROTECTION AGENCY

Air pollution control:
- Federal and State operating permits programs; monitoring requirements; interpretation; comments due by 7-17-06; published 6-2-06 [FR E6-08613]

Air quality implementation plans; approval and promulgation; various States; air quality planning purposes; designation of areas:
- Oregon; comments due by 7-19-06; published 6-19-06 [FR 06-05507]

Air quality implementation plans; approval and promulgation; various States; air quality planning purposes; designation of areas:
- Oregon; comments due by 7-19-06; published 6-19-06 [FR 06-05509]

Air quality implementation plans; approval and promulgation; various States:
- Pennsylvania; comments due by 7-17-06; published 6-16-06 [FR E6-09461]

Hazardous waste:
- Project XL Program; site-specific projects—
  - New England University Laboratories XL Project, MA and VT; expiration date extended; comments due by 7-21-06; published 6-21-06 [FR E6-09754]
  - New England University Laboratories XL Project, MA and VT; expiration date extended; comments due by 7-21-06; published 6-21-06 [FR E6-09753]

FEDERAL COMMUNICATIONS COMMISSION

Common carrier services:
- Individuals with hearing and speech disabilities; telecommunications relay services and speech-to-speech services; comments due by 7-17-06; published 5-31-06 [FR E6-08374]

HOMELAND SECURITY DEPARTMENT

Coast Guard

Drawbridge operations:
- Supplemental changes and clarifications; comments due by 7-17-06; published 5-17-06 [FR 06-04631]
- Virginia; comments due by 7-21-06; published 6-26-06 [FR E6-10048]

Ports and waterways safety; regulated navigation areas, safety zones, security zones, etc.:
- Lower Colorado River, NV; comments due by 7-19-06; published 6-19-06 [FR E6-09588]

Regattas and marine parades:
- Crystal Coast Super Boat Grand Prix, NC; comments due by 7-20-06; published 6-20-06 [FR 06-05536]

INTERIOR DEPARTMENT

Fish and Wildlife Service

Endangered and threatened species:
- Critical habitat designations—
  - Beach mouse; Perdido Key, Choctawhatchee, and St Andrew; comments due by 7-17-06; published 6-16-06 [FR 06-05441]

INTERIOR DEPARTMENT

Minerals Management Service

Outer Continental Shelf; oil and gas and sulphur operations:
- American Petroleum Institute; cementing shallow water flow zones; recommended practice; incorporation by reference; comments due by 7-21-06; published 5-22-06 [FR E6-07792]

PERSONNEL MANAGEMENT OFFICE

Awards:
- Performance-based cash awards programs; revisions; comments due by 7-21-06; published 6-21-06 [FR E6-09797]

SMALL BUSINESS ADMINISTRATION

Government contracting programs:
- Women-Owned Small Business Federal Contract Assistance Program; comments due by 7-17-06; published 6-15-06 [FR 06-05354]

STATE DEPARTMENT

International agreements; publication, coordination, and reporting; amendments; comments due by 7-17-06; published 5-18-06 [FR E6-07596]

LIST OF PUBLIC LAWS

This is a continuing list of public bills from the current session of Congress which have become Federal laws. It may be used in conjunction with "PLUS" (Public Laws Update Service) on 202–741–6043. This list is also available online at *http://www.archives.gov/federal-register/laws.html.*

The text of laws is not published in the **Federal Register** but may be ordered in "slip law" (individual pamphlet) form from the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402 (phone, 202–512–1808). The text will also be made available on the Internet from GPO Access at *http://www.gpoaccess.gov/plaws/index.html.* Some laws may not yet be available.

H.R. 889/P.L. 109–241

Coast Guard and Maritime Transportation Act of 2006 (July 11, 2006; 120 Stat. 516)

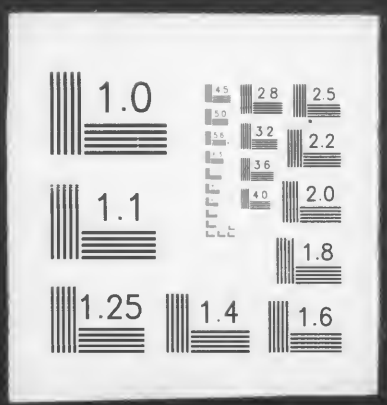
Last List July 10, 2006

Public Laws Electronic Notification Service (PENS)

PENS is a free electronic mail notification service of newly enacted public laws. To subscribe, go to *http://listserv.gsa.gov/archives/publaws-l.html*

Note: This service is strictly for E-mail notification of new laws. The text of laws is not available through this service. **PENS** cannot respond to specific inquiries sent to this address.

Printed on recycled paper


1.0
1.1
1.25
1.4
1.6
1.8
2.0
2.2
2.5
2.8
3.2
3.6
4.0
4.5
5.0
5.6